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LOUISIANA HISTORICAL SOCIETY CENTENNIAL CELEBRATION

As this number of the *Quarterly* goes to press, the Louisiana Historical Society is holding an elaborate series of functions in commemoration of the one hundredth anniversary of the founding of the Society. A complete account of these commemorative ceremonies, together with a detailed history of the Society, is expected to be published in the April number of the *Quarterly*. The following is a copy of the invitation sent out by the Society, containing the general program of these events.

1836 1936

THE PRESIDENT
THE EXECUTIVE COUNCIL
AND THE MEMBERS
of the
LOUISIANA HISTORICAL SOCIETY
request the honour of your presence at the
CEREMONIES IN COMMEMORATION
of the
ONE HUNDREDTH ANNIVERSARY
of the
FOUNDING OF THE SOCIETY
January eighth through January fifteenth
One thousand nine hundred and thirty-six
NEW ORLEANS

PROGRAMME

COURSE OF EVENTS

WEDNESDAY, JANUARY EIGHTH

1:30 P. M. Reception and Tea Commemorating the Battle of New Orleans, Sala Capitular, Cabildo, New Orleans.

THURSDAY, JANUARY NINTH

Centenary Ceremonies at Louisiana State University, Baton Rouge, Louisiana.

FRIDAY, JANUARY TENTH

10:00 P. M. Louisiana Historic Costume Ball, Patio Royal, New Orleans.

SUNDAY, JANUARY TWELFTH

Parade—Jackson Square, New Orleans.
(Hour will be announced.)

MONDAY, JANUARY THIRTEENTH

8:00 P. M. Public Function:
Centenary Ceremonies—The Cabildo, New Orleans.

WEDNESDAY, JANUARY FIFTEENTH

8:15 P. M. Centenary Banquet,
Antoine's, New Orleans.

THE LOUISIANA
HISTORICAL QUARTERLY

VOL. 19, NO. 1 JANUARY, 1936

HENRY ADAMS BULLARD: FIRST PRESIDENT OF THE LOUISIANA HISTORICAL SOCIETY

Edited by WALTER PRICHARD

INTRODUCTION

Judge Henry Adams Bullard, of the Louisiana Supreme Court, occupied the chair at the preliminary meeting called for the formation of the "Historical Society of Louisiana", on May 9, 1835. He was requested at that time by those present to read a paper before the first annual meeting of the Society, to be held on the second Monday of January, 1836. His address, which is printed elsewhere in this number of the *Quarterly*, was delivered on Wednesday, January 13, 1836, and on the 15th of the same month he was elected as the first president of the Society. So far as the writer has been able to ascertain, Judge Bullard was the only president ever elected by this original society during the brief span of its existence.

When the original society was revived or reorganized, in June, 1846, under the name of the "Louisiana Historical Society", Judge Francois Xavier Martin was chosen as its president. However, Judge Martin died on December 11, 1846, and Judge Bullard was elected his successor as president of the Society. He remained president of the Louisiana Historical

Society until his death, which occurred on April 11, 1851. No successor to Judge Bullard appears to have been chosen by the Society, which seems to have ceased to function in the early 1850's, only to be once more resurrected in 1859, with its headquarters transferred from New Orleans to Baton Rouge.

The two articles which follow are in the nature of tributes to the memory of Judge Bullard, penned shortly after his death. They are the work of contemporaries and associates, and together they give a fairly complete account of the life, character, and public services of the eminent gentleman who presided as first president over the destinies of the infant Louisiana Historical Society. The first is here reprinted from *De Bow's Review* for January, 1852, (Vol. XII, pp. 50-56), and the second from Benjamin Franklin French's *Historical Collections of Louisiana,* (New York, 1851, Part III, pp. 5-8). Since these articles are inaccesible to most of the readers of the *Quarterly,* they are reprinted here in full, at the time of the celebration of the Centenary of the Louisiana Historical Society.

THE LATE HENRY A. BULLARD*

Several years ago, when publishing the various documents appertaining to the Historical Society of this State, we introduced in our pages some extracts from an eulogism, pronounced by Judge Bullard upon the Hon. F. Xavier Martin, President of the Society. Judge Bullard having since paid the debt of nature, occupying the same position, we feel that it is but just to his memory, associated as it is with so large a part of the History of Louisiana, to incorporate the following biographical sketch, prepared by our friend, V. H. Ivy, Esq., at the instance of the law graduates of the University. Neither Mr. Ivy, nor ourselves agree with the political tenets held by Judge Bullard; but find nothing in that to militate against our high appreciation of his learning, his talents, and his constant and unwavering services to the state. The gloom of the grave covers up every honest difference, and leaves in our hearts but the vivid memory of the scholar—the jurist—and the man—(Editor).

Mr. Bullard was born in the town of Pepperell, in the State of Massachusetts, on the 9th day of September, 1788. His father was a clergyman of the Presbyterian order of Christians; and on the mother's side he was closely connected with the distinguished family of the Adamses, whose deeds were so conspicuous in our revolutionary war, and whose name is identified with the history of the republic.

At a suitable age he entered Harvard University, and graduated in the class of 1808. He attained here, not only the most distinguished honors which that institution could confer, but acquired all the learning which it could impart; and in the rudimental and classical education which he here obtained, he not only laid the foundation of his subsequent extensive political, legal and general information, as well as pure taste and correct judgment, but also formed the habit, which attended him through life, of laborious and unremitting application. His family being possessed of limited means, he remained about the college for two or three years after he graduated, and some of this time acting as usher in the institution, yet always studying and perfecting himself in classical literature, and in the modern

*Reprinted from *De Bow's Review* (Jan., 1852), Vol. XII, pp. 50-56.

languages, especially in the French and Spanish. At a later period he acquired a knowledge of the German and Italian languages.

Leaving here, he came to Philadelphia, where he read and studied the common law in the offices of David Paul Brown and David Ingersoll, who was a contemporary of Rawle, Lewis and Dallas, then the greatest luminaries of the Philadelphia bar; and in due time he was admitted to practice his profession. We now find him, at the most critical period of his life, a young man of vigorous mind, with a liberal education—with such a legal preparation as we may suppose he would have under the auspices of Brown and Ingersoll—full of the high hopes and aspirations which the fame and example of such men would excite; and yet, without influential relations and friends to give him the first impulse, without which so many of the noblest and best so frequently fall into despair. About this time Mexico was in revolution against Spain. The spirit which had accomplished the independence of our own country, was convulsing Mexico like a troubled sea. The Spanish monarchy had become more intolerable than ever under the order of things effected by the power of the great Napoleon. Hidalgo and Morales had given the ball of revolution a mighty impetus; the whole country was in arms; Mexican patriots could look to the people of no country for such kind sympathy as to the people of the states of this Union. And here they *did* find that sympathy which our countrymen never withhold from the subjects of despotism.

Toledo, one of the Mexican revolutionary generals, was at this time in Philadelphia, seeking recruits, and such means as he could, to sustain the cause of the patriots. Where could he find one better adapted to his purposes than the young Bullard? His knowledge of the Spanish language introduced him to that officer. His ardent and daring soul, and his classically stored mind, chafed with the desire of activity in that splendid arena of talent—the Philadelphia bar; yet it chafed in vain. Thus anxious, yet restrained, he was fascinated with the splendid pictures painted by the imaginative mind of the Spanish revolutionary soldier. Can we wonder what was his course? He joined Toledo. His energetic character and full education so strongly recommended him to that officer, that he placed him on his staff, and made him his military secretary and aide-de-

camp. He proceeded with the general to the western country, and passed most of the winter of '12 and '13 in Nashville. In the spring, he accompanied the recruits down the river to Natchitoches. They soon after entered the Mexican territories, and joined other patriots, who were assisting the people to throw off the Spanish yoke, and establish a republican government. The country at this time was in full revolution. Several hard battles had been fought, and the Spanish forces, sorely defeated, had mostly retired. Aredondo had command at San Antonio and the vicinity; he was dislodged from his position and driven back. Don Bernardo Gutierez, with Cols. Kemper and Perry, commanded the patriot forces. When Toledo came with his reinforcement, he was appointed to the chief command. Young Bullard was high in the favor of the commander-in-chief, and intimately connected with him in the capacity of aid-de-camp and secretary. Aredondo was preparing to meet the republican forces. The Spanish troops rallied under him, and on the 13th of August, 1813, a general engagement was brought on near San Antonio. It was soon ascertained that the forces under Toledo, composed of new recruits, refused to co-operate, and the defection was discovered in the ranks. This portended defeat to the patriots; and, indeed, after some hard fighting, a retreat commenced, which soon became general. Toledo and his followers had to retire before the Spanish veterans. This broke up the expedition; and the Americans who had joined him returned to the United States. Bullard, with a few of his companions in arms, reached the American frontiers, after encountering many hardships and dangers, and came to Natchitoches, destitute and worn down with fatigue and sickness.

Here he paused; he found himself destitute, and in a strange country, without a single friend able to help him. His brightest hopes were blighted: his wildest and fondest dreams dispelled: his high aspirations checked. The beautiful fabric of name and fortune, which his fine mind and hopeful heart had built, lay a wreck at his feet. Though despair assailed, it did not conquer him. Adversity is a terrible tyrant; its blows are overpowering and remorseless when aimed at the weak; but when it wrestles with a man like Bullard, and puts forth its mightiest efforts to subdue, it only fires the soul, and nerves the arm, and makes him a conqueror.

Mr. Bullard had now to commence his career anew: his education and his talents were the only means left him. With these he sustained the severe but triumphant struggle with the adverse circumstances which surrounded him. He opened a law office; and his knowledge of the French and Spanish languages soon enabled him to become acquainted with the leading and most influential citizens of that ancient town of Louisiana. They were nearly all of French and Spanish origin: the town itself having been originally settled by the Spanish. They were hospitable, and mostly wealthy; and that section of the country was then the most flourishing portion of the state.

He had, on completing his education, studied the elements of the Roman civil law, and had assiduously applied himself to the study of our civil law. As nearly as possible, he made himself master of the Napoleon code, and the Louisiana code of 1808; and was familiar with the leading authors on the civil law, Domat, Pothier, Toullier, Merlin, Sirey, and others. With this capital, in a rich community, and speaking the language of the people, he attained their confidence; and his business increased until he had even more than he could attend to. And though continually in the discharge of a practical, laborious and exhaustive business, he never forgot nor neglected the classics, history and literature, and the more abstruse studies of his profession.

We now find him about to realize the fortune to which he had never ceased to look forward. He now married; and from this marriage there were five children—two sons and three daughters, who are all living. The parents possessed no wealth at the marriage; yet, at one time since, they had amassed a considerable fortune. The children were all well educated, and well provided for in their youth.

Having devoted the latter half of his life to public affairs, his pecuniary matters suffered, and the ample fortune which he had accumulated in the earlier part, became much embarrassed.

He had not been long at the bar in Louisiana, before he was appointed one of the district judges, which office he held about three years, when he resigned it to resume his practice. In 1822, he was elected to the legislature of Louisiana, and

served for two years. In April, 1826, he was again appointed to the judgeship of the sixth district court of the state, which he filled until the 1st of July, 1930, when he resigned, and was elected to the Congress of the United States from the western district of Louisiana.

While on the bench, even as district judge, his decisions cast much light on the jurisprudence of the state. He was in the constant habit of investigating every legal question arising in the civil law as administered in Louisiana. His great learning well suited him for this, and his habits of industry and legal inquiry and research were laborious and unremitting; judicial labor was more severe then than now. Our system of jurisprudence had not then been elucidated by the searching and thorough investigations of the great jurists who have since spent so much time and study upon it, and who have left the results of their labors in our reports.

As a member of Congress, Judge Bullard was active and efficient: he took a lively interest in the exciting topics of the day. The tariff measure of '32, then caused much agitation, and almost shook the Union to its centre. Some of the Southern states were on the point of resistance to the law creating it. In the conscientious discharge of his duty, Judge Bullard maintained a consistent and decisive course, and displayed the talent of a learned and firm mind: he strongly advocated a tariff extending protection to manufactures of the United States, and especially that sugar should be so protected, as well as cotton fabrics. And though differing in opinion on this material question from many, he deserved and obtained the respect of all for the able manner in which he supported and enforced his own convictions.

In 1832 he was re-elected to Congress; and while in this Congress, was appointed by Gov. Roman, then Governor of Louisiana, one of the judges of the Supreme Court of this State, to fill the vacancy occasioned by the election of Judge Porter to the Senate of the United States.

Probably no man in our state has ever contributed more to the elucidation of our system of jurisprudence than Judge Porter; the correctness of his decisions was never questioned: indeed, they have ever been received by our bench and bar

with unqualified respect, and referred to with unhesitating confidence—a man whose talents and probity dignified the place which he held, and who received no additional glory from the position. To fill the place of such a man, no ordinary jurist was required; it needed a man of energy, of close application, of extensive information: and accordingly Judge Bullard was appointed in his place on the 4th day of February, 1834. He performed the duties of the office with signal ability, until on the 5th of February, 1839, near the first of the second term of Governor Roman, he was appointed Secretary of State for the State of Louisiana.

It would seem then to have been a matter of some difficulty to get a suitable person to fill the place of Judge Bullard on the Supreme bench. Judge Martin, who had been on the Supreme bench for twenty-four years previously, and was for seven years subsequently, declared that his place could not be filled; and at the warm solicitation of the presiding judge and the bar, he resigned the office of Secretary of State on the 17th of December, 1839, and on the same day was re-appointed to the Supreme bench, and continued actively to discharge his high and onerous duties, notwithstanding his physical infirmities, which for many years seriously annoyed him, and which now had much increased. His opinions, delivered from the Supreme bench, are models of judicial eloquence: they display the legal learning of the eminent jurist, and the classic style of the scholar.

He remained on the Supreme bench until, on the remodeling of the judiciary under the present Constitution of our state in the year '46, the old bench was entirely superseded, and a new one formed. Judge Bullard, with his brother judges, now retired to private life. He had not been long in this retirement when he was called upon to pronounce a funeral discourse on the life and character of the venerable Judge Martin. In that discourse, how encouraging a moral he drew from the eventful life of the revered jurist—of the blind old man! Was he conscious how he himself was a living illustration of the truth of his words?

The judge now returned to the practice of the law, at the New Orleans bar, and was consulted and employed in many very important and difficult law cases.

In the year 1847 he was appointed professor of the civil bar, in the university of this state; but delivered only two courses of lectures. He prepared a course of very able lectures, adapted to his professorship. They were replete with learning and research in the Roman civil law, as modified and practised in Louisiana. He traced the history of our system of jurisprudence through its various branches, up to its fountains in the constitutions of the first kings of Rome, the twelve tables, the Praetorian edicts. The opinions of the learned men, the decrees of the Roman senate, and the laws of the people of Rome; how in its crude, chaotic state, it was codified by Theodosius, and afterwards by Justinian. He pursued this subject as a poet pursues a wild and beatuiful idea, repeating with enthusiasm the words of D'Aguesseau, that "the proud destinies of Rome were not yet accomplished. She reigns throughout the world by her reason, after having ceased to reign by her authority."

In 1850 he was elected to fill a vacancy in our state legislature; and in September of the same year, was elected a member of the 31st Congress, to fill the place made vacant by the resignation of C. M. Conrad, who was appointed Secretary of War. Judge Bullard returned to Congress after an absence of sixteen years, and served out the last session; and although weighed down by his physical infirmities, he took an active interest in all the exciting topics and measures which were agitated and acted on during the session. He was seldom out of his place, and voted to the last day and night of the session on all questions and laws which came up. During the session, he also appeared in, and argued several important law cases in the Supreme Court of the United States. He was retained in several more which are not yet tried. Notwithstanding his continuous and active occupations, public and private, Judge Bullard, in connection with Judge Curry, has made a digest of the laws of the state, embracing all the statutes of Louisiana of a general nature, from the territorial legislature in 1805, to that of the state in 1841. It was never completed. A second volume was intended, but at the time it ought to have appeared, a law passed calling a state convention to form a new constitution. As the adoption of this constitution would necessarily change and abrogate many of the most important laws, all idea of publishing a second volume was abandoned. Since then, a "state commission" has been appointed to frame a digest.

Judge Bullard was also an active, and perhaps one of the most efficient members of the Historical Society of Louisiana. This society, formed in 1835, had slept some ten years, until it was awakened by the assiduous exertions of Mr. De Bow,* in 1845, when Judge Bullard was selected to deliver the introductory lecture before it. He was afterwards, on the death of Judge Martin, elected President of the Society, and until his death, on the 17th of April, 1851, held the place, which has not yet been filled. Indeed, it is much to be regretted, that an institution which might be of so much advantage and glory to the state, should be allowed by our citizens to linger thus, and perhaps entirely to decline.

As a jurist, Judge Bullard was profound, but comprehensive and clear, and the records of his labors are daily pondered over and recited by the members of his profession, in his digest and in the reports of the state. As a politician, he had the confidence of his constituents. As a speaker, he was generally plain and didactic, but always condensed, explicit, and comprehensive; full of deep and practical thought; and his language unexceptionally chaste and classical. And sometimes he would indulge in beautiful and appropriate figures.

As the practical lawyer and stern teacher, he was morose and afflicted, during the last half of his life, by disease, and his manner superficially harsh and even petulant; yet, they who have known him for a long time, and well, and who have had the pleasure of his friendly intimacy, bear testimony that he was not destitute of the kinder and gentler feelings of our nature. His heart, though embittered and seared by circumstances, when touched, vibrated with sweet and mournful sadness. Who does not recognize the music of feeling, when singing the requiem of the gifted Prentiss, the old man said, with tears, and with this we must close his own brief biography:

"Who would have thought that I, whose career is ended—that I, whose sands are fast dropping away—that I, with my age and physical infirmities—I, whose children no longer require a father's solicitude, should have survived to pay this feeble tribute to his memory; while he, the young, the noble-

*John Perkins, Esq., did quite as much in this matter as ourselves, and has subsequently done much more. (Ed.)

hearted, the gifted—in the fullness of his fame and usefulness —sinks into an early grave? How inscrutable are the ways of Providence!"

MEMOIR OF HON. HENRY A. BULLARD, LL. D.,

President of the Louisiana Historical Society, and Late Judge of the Supreme Court of Louisiana*

Massachusetts and Virginia have been, from early times, distinguished as the nursing-mothers of eminent lawyers, judges, and statesmen. Among these an Otis and a Henry, a Story and a Marshall, a Parsons and a Wythe, a Webster and a Lee, an Adams and a Jefferson, a Hancock and a Madison, a Bullard and a Barbour, do honor not only to the judicial bench, but to the states that gave them birth. When the second part of this work made its appearance last year, the subject of this memoir was then living, and I should be doing injustice to the memory of a friend, so distinguished in the annals of Jurisprudence, were I to close this volume without taking some notice of his recent death and public life.

The Hon. Henry A. Bullard, LL. D., late Judge of the Supreme Court of Louisiana, was born in Groton, Massachusetts, on the 9th of September, 1788. At an early age he was sent to Harvard University, Cambridge, where he graduated at the age of nineteen. In the following year he commenced the study of the law, and at the same time, several of the modern languages, particularly the French, Spanish, and German, which he spoke and read with great fluency. From Boston he proceeded to Philadelphia, and entered the law office of Peter A. Browne, Esq., LL. D., then one of the most eminent lawyers of that city, but who has since retired from the bar, to devote himself to philosophical and scientific investigations, which do honor to his highly cultivated and gifted mind, and has given him a high rank among the *savans* of Europe.

*Reprinted from B. F. French, *Historical Collections of Louisiana*, Part III, pp. 5-8, (New York, 1851).

In this city, he became acquainted with Tilghman, Duponceau, Dallas, Binney, and the Ingersolls, whose writings and forensic eloquence, are still the theme of every pen.

From Philadelphia young Bullard followed the onward march of empire to the West, and joined in an expedition to republicanize a part of Mexico. After several hair-breadth escapes, he finally returned to Natchitoches, where he opened a law office.

At that time a practising lawyer in the western district of Louisiana was compelled to ride a circuit embracing Opelousas, Avoyelles, Alexandria, Natchitoches, Ouachita, and Concordia, a distance probably of three hundred miles. The practice was lucrative, and the bar of Louisiana numbered then more men of talent and learning than has appeared at any subsequent period.

The names of Livingston, Porter, Wilson, Johnson, Brent, Bowen, Bronson, Lewis, Mathews, Mazureau, Thomas, and Bullard, would have done honor to any country; and of these only Thomas and Bronson still survive. In 1830, Judge Bullard was elected to Congress, and in 1832 he was appointed District Judge. In 1834, he was elevated to the Supreme Bench, taking the place of Judge Porter, who was elected to the Senate of the United States. While in Congress, he spoke on several occasions, and was listened to with the most marked attention. His most elaborate speech was on the Tariff bill, in 1832. He remained on the Supreme Bench from 1834 to 1846, with the exception of a few months in 1839, when he filled the office of Secretary of State, and resumed the practice of his profession. He kept up to the last his habit of reading the classics and the best writers on French jurisprudence, the Roman and civil law. His conversation was that of a full man without the slightest approach to pedantry. It may well be said of him, that

> "He was a scholar, and a wise and good one;
> Exceeding wise, fair-spoken, and persuading."

As a speaker, he had the advantage of a face of great beauty, which the ravages of the gout could not destroy; a musical voice, and a brilliant eye. When excited, he spoke with great feeling, force, and eloquence. His last public speech, in New Orleans, was at the bar-meeting, called together by the death of the Hon. S. S. Prentiss on which occasion he pronounced one of the most beautiful eulogies that we have on record. His opinions while on the

bench, are models of judicial rhetoric, brief, perspicuous, and pointed. As a writer he had few equals; he wrote without effort, yet with a critical accuracy that defied correction.

Besides his reported decisions, while on the bench, he delivered many lectures and addresses, which might well be compared with similar productions in any language. In 1847, he was appointed Professor of the Civil Law, in the University of Louisiana, where he delivered two courses of lectures to a large class. In 1850, he was elected to fill a vacancy in Congress, occasioned by the appointment of the Hon. C. M. Conrad, to the post of Secretary of War. He did not speak much during this session, (though we know he had prepared himself to do so on the California bills), being prevented by ill health. His thorough knowledge of the Spanish laws, and their system of land-titles, would have enabled Congress to give much valuable information which is now lost. During the session he argued several important cases before the Supreme Court, and was listened to with eager attention. His health gradually declined, until he reached New Orleans, in April, 1851, where, after a lingering illness of three weeks, he died from gout in the stomach.

At an adjourned meeting of the members of the bar, at which the Hon. C. Roselius presided, the following resolutions were unanimously adopted and ordered to be published:

The Committee appointed by the Members of the Bar at New Orleans, to present to an adjourned meeting, resolutions expressive of our feelings on the melancholy occasion of the death of the Hon. Henry A. Bullard, respectfully beg leave to report the following:

Whereas, the Bar of Louisiana has sustained great loss in the death of a distinguished member of its body, whose brilliant talents, varied attainments, public services, and private worth, deserve a permanent record of the respect and esteem of his compeers;

Whereas, a manifestation of the regard and admiration entertained by the living for departed worth, is at once a partial discharge of a debt of gratitude to the illustrious dead, and an incentive to the honorable ambition of the survivors; therefore it is

1. *Resolved,* That we deeply deplore this afflictive dispensation of Providence, which has removed from us, in the midst of his usefulness, and in the fulness of his fame, our distinguished brother, Henry Adams Bullard.

2. *Resolved,* That as a jurist he was learned and profound without pedantry, and as a scholar, accomplished and refined without ostentation; and has left on record imperishable memorials of a superior mind.

3. *Resolved,* That with his intercourse with his brethren of the Bar he was courteous, urbane, and stirctly honorable; and

4. *Resolved,* That towards the younger members of the profession he was, from the generous impulses of his nature, kind, considerate, and encouraging.

5. *Resolved,* That the Bar of New Orleans deeply deplore the death of Judge Bullard, who fulfilled well and wisely the duties of Judge of the Supreme Court of Louisiana, Secretary of State, and Representative in the Congress of the United States, and Professor of the Roman Law in the University of Louisiana.

6. *Resolved,* That in his death we lament the loss of one of our brightest ornaments, ripest scholars, ablest lawyers, and most useful citizens.

7. *Resolved,* That in order to testify their profound sense of his public services and private virtues, the members of the Bar of New Orleans will wear crepe on the left arm for the space of thirty days.

8. *Resolved,* That as a further testimonial of their respect, the Attorney General, and U. S. District Attorney respectively be requested to present a copy of these resolutions to the Supreme Court, and to the U. S. District and Circuit Courts in this city, and to move that they be entered on record on their minutes.

9. *Resolved,* That the Secretary of this meeting be solicited to transmit copies of these resolutions to the family of the deceased, and to the newspapers for publication.

10. *Resolved,* That the Reporter of the decisions of the Supreme Court be requested to insert the foregoing resolutions in the next number of the Louisiana Annual Reports.

ADDRESS DELIVERED BEFORE THE LOUISIANA HISTORICAL SOCIETY AT ITS FIRST ANNUAL MEETING ONE HUNDRED YEARS AGO

Edited by WALTER PRICHARD

INTRODUCTION

The preliminary organization of the "Historical Society of Louisiana" was effected at a meeting held in the Supreme Court Room in New Orleans, on Saturday afternoon, May 9, 1835. Judge Henry Adams Bullard, of the Louisiana Supreme Court, was chosen to preside over this meeting. After completion of other business before the meeting, Judge Bullard was requested by those present to read a "paper" before the Society at its first annual meeting, which was set for the second Monday in January, 1836. The subject assigned for this paper was: "The Expediency and Utility of Establishing a Historical Society in This State."

The second Monday in January, 1836, fell on the 11th of the month. A meeting of the Society was held on that day, but for some reason unknown to the writer the address of Judge Bullard was postponed until Wednesday, January 13, 1836. This address or "discourse" seems to have produced a very favorable impression upon the members of the Society, as Judge Bullard was elected first President of the "Historical Society of Louisiana" on January 15, 1836. The address was printed by Benjamin A. Levy, of New Orleans, as a 30-page octavo pamphlet, apparently under the auspices of the Society. It was the first and only publication by the Society until the appearance of the first volume of their "Publications" in 1895. The address was accorded a brief notice in the *North American Review* for July, 1836, (Vol. XLIII, p. 281). It was reprinted in full in Benjamin Franklin French, *Historical Collections of Louisiana*, Part I, New York, 1846, pp. 1-23, from which it is reprinted below.

The suggestions and observations on Louisiana History made by Judge Bullard a century ago are still valuable and full of interest to the members of the Louisiana Historical Society and the readers of the *Quarterly*. For that reason they are below reproduced in full.

A DISCOURSE DELIVERED BEFORE THE HISTORICAL SOCIETY OF LOUISIANA

January 13, 1836

By HENRY A. BULLARD,
President of the Society*

Gentlemen:

At our preliminary meeting you were pleased to request me to read to you, at this time, a paper upon the expediency and utility of establishing a Historical Society in this State. The same causes which kept me from the discharge of public duties during the last summer and autumn, prevented my making any adequate preparation for this occasion, and the few remarks which I have to offer, are intended to evince my zeal in the cause which has called us together, and my ready obedience to your call, rather than as at all worthy of the subject or the occasion.

To minds exclusively devoted to the pursuit of wealth, and bending all their energies to that single purpose, it would seem a startling proposition, that there could be anything either of interest or utility in inquiries into the history of the first discovery and settlement of Louisiana by Europeans; in rescuing from threatened oblivion the records of its first colonization; in efforts to bring to light and to perpetuate, by means of the press, all such documents as would form the elements of an authentic history of our multiform population, and the successive changes in the forms of colonial government, and the progress of its settlement under the different sovereigns who have successively ruled this country. But the time has arrived, I trust, when pursuits of a character purely literary, will have their value among us; when those who engage in researches, having only truth for their subject, although barren of immediate results, will be regarded as contributing in some measure to the public good, by adding something to the stock of our national literature. As contemporary history is liable to be discolored by interest, by prejudice and passion, each generation,

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*Reprinted from B. F. French, *Historical Collections of Louisiana*, (New York, 1846, Part I, pp. 1-23).

as it passes away, is under obligations to its successors to furnish them those authentic materials for which alone its true character can be known to posterity, and to perpetuate the public documents and correspondence which accompany and explain every public transaction. But we, who are enjoying the fruits of the labors, and fatigues, and sufferings of our predecessors, owe it also to their memory, to snatch from oblivion the record of their actions, and no longer to leave their fame to rest on the loose, and garbled, and exaggerated narrations of contemporary writers, or catch-penny authors of what the world calls history. History, Gentlemen, as it is generally written, is at best but an approximation to truth, I had almost said, an approximation to probability. It is true the exaggerated and marvellous statements of travellers, or discoverers and settlers, as to physical features and productions of a new country, and the characters of its aboriginal inhabitants, may easily be corrected by subsequent observation and experience. The width of the Mississippi, for example, below this capital, had dwindled from a league to less than a mile; St. Louis is no longer in latitude 45 north, and 276 longitude; quarries of emeralds, silver mines and gold dust, are nowhere found in Louisiana. But the narratives of events and transactions, by real or pretended eye-witnesses, or by the authors of histories and memoirs, can only be tested by reference to authentic records, or by their own intrinsic evidence of their falsity or truth. This latter test is not always to be relied on, for the true is not always probable. Tradition, ornamented and colored by fiction, has always proved, from the earliest records of our race, a large ingredient in the composition of history. Hence the origin and early annals not only of the people and states of antiquity, but of many of comparatively modern date, are involved in mystery and fable. But it would be a matter of just reproach, if a people, whose first lodgment on the continent was made long since the discovery of the art of printing; whose entire annals embrace a period of the highest civilisation; if such a people, I say, should suffer to perish the muniments of its early history, and the mists of fiction to settle on its origin and progress.

In many of the States of this Union, of British origin, historical societies have been organized, whose labors have been eminently successful. A mass of materials has been accumulated and preserved by means of the press, which excludes the possibility of future misrepresentations in regard to the true history

of the country, and the times to which they relate. It is singularly interesting to look at the conduct and characters of our ancestors through such a medium. We see them as they were; we hear them speak the language of their own age; we are brought in immediate contact with the founders of our rising empire; we trace the gradual progress of their settlement, from the sea-board to the interior; we witness their privations, their sufferings, their unflinching firmness and constancy of purpose. At a more recent period, we are introduced into the primitive assemblies of the people; we observe the gradual development of those opinions and principles, which at this day lay at the foundation of our free popular institutions; the first discussed, when the threatened encroachments of power upon right were met and resisted, and the blood of the Barons of Runymeade cried out for Magna Charta, in the wilderness of a new world.

Gentlemen, the field of research which we propose to explore, is vast and in a great measure new. It is proposed to extend our inquiries into the history of all that country formerly possessed by France and Spain, under the name of Louisiane; to endeavor to bring to light and to perpetuate by means of the press, all authentic papers relating thereto; to collect interesting traditions, private histories and correspondences, and pictures of manners; to investigate the progress of our jurisprudence; the state of religion, and the condition of the Indian tribes in that whole region. It is obvious that many of the original documents and records, relating to the settlement and colonization of that extensive region, must exist in the public archives at Paris, Madrid, and Seville, as well as the Havana; some in the archives of the former government in this city, at St. Louis and Natchez; others again at notaries' offices, here; in the parochial records of the different posts in the interior, and much interesting matter in possession of the families of some of the earlier settlers of the country. It is becoming more and more difficult every day, to bring together from sources so various and so widely dispersed, such memorials as may yet exist. It is time, therefore, to begin the work in earnest and methodically.

Before I proceed, Gentlemen, to make a few remarks on the several heads into which the programme of our proposed researches is naturally divided, let us pause and take a mo-

mentary survey of the population of the country as it exists, whose origin and first establishment it will become us to investigate more minutely in the progress of our labors. Like the rich soil upon our great rivers, the population may be said to be alluvial; composed of distinctly colored strata, not yet perfectly amalgamated; left by successive waves of emigration. Here we trace the gay, light-hearted, brave chivalry of France; the more impassioned and devoted Spaniard; the untiring industry and perseverance of the German, and the bluff sturdiness of the British race. Here were thrown the wreck of Acadie, and the descendants of those unhappy fugitives still exist in various parts of this State. Little colonies from Spain, or the Spanish islands on the coast of Africa, were scattered in different parts of the country. Such were New Iberia in Attakapas, Valenzuela in Lafourche, Terre aux Boeufs and Galvezton. They still retain, to a certain extent, their language, manners and pursuits. There are, in the Western District, some families of Gipsey origin, who still retain the peculiar complexion and wildness of eye, that characterize that singular race. The traces of the Canadian hunter and boatman are not yet entirely effaced. The Germans, I believe, have totally lost the language of their fatherland. The country of the German coast is, perhaps, the only existing memorial of the celebrated John Law, the author of the most stupendous scheme of banking, and stock-jobbing, and fraud, that was ever practised on the credulity of modern times. Among the earliest concessions of land in the province, was one in favor of Law, situated on the Arkansas, and prior to the settlement of New Orleans; he had sent over a small colony of Germans to take possession and improve it; but on the downfall of the grantee, his colonists broke up the establishment, and returned to this city, where they obtained, each for himself, a small grant of land on the Mississippi, at a place which has ever since been called the German coast. The little colonies of Spaniards at New Iberia and Terre aux Boeufs, never had any written concessions, they were put in possession by the public surveyor, and it was not until long since the change of government, that their descendants obtained an authentic recognition of their title from the United States. But time does not permit me to pursue this subject any farther; these few hints are intended merely to direct your attention to it, as one of curious interest.

I proceed, Gentlemen, to submit a few remarks on some of the several heads of our proposed plan. 1st, The general history of the province from its first discovery to the present day. 2d, The progress of our jurisprudence and state of religion; and 3d, The condition of the Indian tribes. It is, by no means, my purpose to attempt to give you a full view of the present state of our knowledge on these topics, much less to collate or criticise the various histories and memoirs which have appeared, even if I were capable of the task. But let us see in what particulars our knowledge is clearly defective, and whether it be probable that by proper diligence the deficiency may be supplied, and errors or misrepresentations corrected.

The successive changes of government form, naturally, the epochs of our history. The first extends from the discovery of the mouth of the Mississippi by La Salle in 1681, from the interior, by way of the Lakes, until the grant to Crozat in 1712. 2d, Under the monopoly of Crozat, until 1717. 3d, Under the administration of the Western Company, until the surrender of their grant, 1732. 4th, Under the direct authority of the crown of France, until the final delivery of the province to Spain, 1769, in pursuance of the treaty of Paris. 5th, Under the government of Spain, until the treaty of cession in 1803; and lastly, as an integral part of the United States, whether as a territory or a state.

I. I think it cannot be controverted, that Robert Cavelier de la Salle first discovered the mouth of the Mississippi on the 7th of April, 1682. Accompanied by the Chevalier de Tonti, and a few followers, he descended from the mouth of the Illinois to the Gulf of Mexico, passing through numerous tribes of Indians, not in hostile array, but his most effectual arms, the Calumet of peace. De la Salle was, without doubt, a man of great energy and enterprise, ardent and brave, sagacious and prudent, and of conciliatory manners. He appears to have been, at the same time, feared, respected, and even beloved by the natives. I should not have considered it necessary to mention this fact of the first discovery, as one well settled, if attempts had not been made to create some doubts about it, if not to deprive him of that honor, and to confer it upon Father Louis Hennepin, a missionary of the order of St. Francis. In the first volume of "The Condensed Geography and History of

the Western States, or the Mississippi Valley," published a few years ago at Cincinnati, under the particular head of "history," not a word is said of De la Salle having explored the course of the river as far as the Gulf, and of his having taken formal possession of the country, in the name of the King of France. On the contrary, it is asserted, that in the spring of the previous year, Hennepin, who had been instructed, in the absence of De la Salle, to explore the sources of the river, finding it easier to descend than to ascend, had proceeded down and reached the Balize in sixteen days, "if his word can be taken for it," says the author, from the time of his departure from the mouth of the Illinois. In the next place, the author represents that De la Salle, in 1683, after laying the foundations of Cahokia and Kaskaskia, left M. de Tonti in command of those establishments, returned to Canada, and thence made all haste to France, to solicit the co-operation of the French Ministry in his views. In addition to the utter improbability of this whole story, it is completely refuted by the testimony of the Reverend Father himself. His first publication after his return to France, and the first edition of it, is now in my possession. It was published on the 5th of January, 1683, the author being then in Paris, and was dedicated to the king of France. The work is entitled, "Description de la Louisiane nouvellement découverte au sud-oüest de la Nouvelle France." He gives a minute account of his voyage from the mouth of the Illinois, to a considerable distance above the Falls of St. Anthony; of his captivity, during eight months, among the Indians of the Upper Mississippi; and finally, of his return to some of the French posts in Canada about Whitsuntide (May), 1681. The "Privilège du Roi," for the publication of this first work Hennepin, was granted on the 3d of September, 1682. Not only is the author silent as to any voyage by himself down the river as far as the Gulf of Mexico, or of his having descended below the mouth of Illinois, but the concluding paragraph shows conclusively, that he at that time set up no such pretensions. He says, in conclusion, "They sent me word, this year (1682), from New France, that M. de la Salle, finding that I had made peace with the tribes of the north and the north-west, situated more than five hundred leagues above, on the river Colbert (Mississippi), who were at war with the Illinois and the nations of the south, this brave captain, governor of Fort Frontenac, who, by his zeal

and courage, throws new lustre on the names of the Caveliers, his ancestors, descended last year with his followers, and our Franciscans, as far as the mouth of the great river Colbert, and to the sea, and that he traversed unknown nations, some of whom are civilized. It is believed he is about to return to France, in order to give the court a more ample knowledge of the whole of Louisiana, which we may call the delight and terrestrial paradise of America. The king might form there an empire, which, in a short time, will become flourishing in spite of the opposition of any foreign power."

In another part of the same work, the good Father says, "We had some intention to descend as far as the mouth of the river Colbert, which probably empties into the Gulf of Mexico, rather than into the Vermilion Sea; but those natives who had arrested us, did not allow us time to navigate the river both above and below." Here is a formal disclaimer of any discovery made by Hennepin, and an announcement that the discovery had been made by another; and yet the author of the *Condensed* History and Geography of the Western States represents Hennepin, I know not on what authority, as having reached the Gulf of Mexico on the 25th of March, 1680; a period when, according to his own account of himself, he was struggling in a frail canoe, against the ice and currents above the mouth of Missouri. One is tempted to repeat the reflection of Voltaire, "c'est ainsi que l'on écrit l'histoire."

Father Hennepin did not certainly much overrate the great natural fertility and resources of Louisiana. But it is not a little remarkable, slow and lingering were the first attempts to colonize it, although made under the immediate auspices of the crown of France. The most superficial reader of history cannot have failed to remark the different spirit which characterizes the colonization of this continent by Spain, France and England. The Spaniard came for conquest and for gold; regarding the aborigines as enemies to God; no alternative was left them but the cross, or the edge of the sword; even submission did not save them from the most abject and oppressive servitude. France, on the contrary, cultivated the good will of the natives, and was, in general, eminently successful in gaining their friendship, so far at least as relates to Louisiana; commerce with them, in the natural productions of the country, seems to have been

their primary object. Trade, in fact, was the basis of her colonial policy; trade, too, not open to all her subjects, but in the hands of monopolists by grants from the crown, and maintained in the enjoyment of it by naval and military power. The first establishments of the French were rather trading houses than colonies. The English colonies, on the contrary, were for the most part the off-spring of individual enterprise. The basis of their systems was agriculture combined with commerce; they brought with them their household goods; they sought a permanent abiding place, for themselves and their posterity; many of them, far from enjoying the patronage and protection of the crown, fled from persecution and intolerance. They came, and as soon as private interest began to operate freely, on a soil comparatively sterile, and in a rigorous climate, the country was converted into a garden. The English colonists brought with them the germ of popular self-government; at very early periods, they made laws for themselves, sometimes in assemblies purely democratic; generally through their representatives, laws suited to their conditions and their wants. In the colonies of France and Spain, on the contrary, except in matters of mere local police, all laws and regulations came over the ocean. Trade in its most minute ramifications, even domestic trade, was fettered with precise tariffs of prices and profits, instead of being left open to free competition. According to a regulation established by the Western Company, 1721, the price of a slave sold to the colonists by the proprietary company, was fixed at six hundred livres, on a credit of one, two and three years; tobacco, in leaf or twist, was bought at their warehouses at the rate of twenty-five livres per hundred; rice, at twelve livres the quintal; peltries and furs had their fixed prices. French goods were sold at Biloxi, Mobile and New Orleans, at five per cent. advance on the invoice price in France; at Natchez and Yazoo at seventy per cent profit; at Natchitoches and Arkansas, at eighty per cent., and at one hundred per cent. in Illinois. The price of wine was one hundred and twenty livres the *barrique.*

There sprung out of this spirit of petty traffic, a class of characters altogether unique and unknown elsewhere, called *"coureurs des bois,"* half peddlers and half hunters, with a little finish of the broker. It was through their agency that goods imported from France, were pushed into the most remote set-

tlements of the country and to the Indian villages, and exchanged for the productions of the country. When I first came to this country, I knew some old decrepid men of that class; crippled, frost-bitten, and yet at an extreme old age retaining a singular predilection for that wandering, half savage life, and still dressed in skins, with leggins and moccasins.

Appended to the regulations of the Western Company, to which I have alluded, was a strong recommendation, which I mention, to show how singularly it has been neglected up to the present day. The company earnestly recommend to the colonists, to cultivate silk, to plant out mulberry trees, and offers as high a price for raw silk, as it now bears in the best market. They were sensible that perhaps no country on earth was better suited to that branch of industry; that the mulberry is indigenous in every part of the province, and grows with great luxuriance, and is among the first trees to put forth its foliage in the spring. This recommendation seems to have been totally neglected, until more lucrative staples were introduced, which now engross the whole industry and capital of the country. But the time may yet come, when the raising of silk, a beautiful branch of industry, which in fact would not interfere with more heavy crops, will become extensive, as it could not fail to become lucrative in this country.

The first colonists made two or three successive selections of a capital for their new colony, that were injudicious in the extreme; Dauphine island and the two Biloxis, all sandy barrens. More than twenty years after the establishment, they depended almost exclusively on France, Vera Cruz and the Havana, for a supply of provisions, and in the vicinity of the richest soil in the world, the people were threatened with famine. It was not until those places were finally abandoned after the surrender of his charter by Crozat, and a change of system under the administration of the Western Company, that the great resources of the country began to develop themselves; numerous grants of land were then made, and agriculture began to take a start. On this part of our early history, little need be said at this time; but I should be wanting to myself, as well as the occasion, if I failed to make honorable mention of the production of our best historian, whose labors have thrown important light upon every part of our history,

without omitting many minute and interesting details on this part in particular. Historical literature is deeply indebted to my learned and distinguished friend and colleague, Judge Martin. His work, while it evinces great labor and research, proves at the same time how scattered and fugitive are the materials employed by him in its composition, and how difficult, if not impossible, it would be for a reader to satisfy his curiosity by resorting to the original sources of information from which the author drew. He appears to have had access to manuscripts which have never been published, but which it is not, perhaps, too late to arrest from oblivion.

It must be confessed, that at the breaking out of the war of 1756, France possessed on this continent the basis of a splendid empire. Her possessions embraced on the south the mouth of the Mississippi, and on the north, that of the St. Lawrence, stretching through the heart of the continent, and covering the great central valley of the Mississippi and the Northern Lakes. Louisiana, though by far the most important and interesting portion of her domain, had made but little progress, and was regarded as an appendage to Canada. That war, it is well known, was disastrous to the arms of France, and at the pacification in 1762, she was stripped of all her possessions in North America, except that part of the ancient province of Louisiana west of the Mississippi, together with the island of Orleans. Simultaneously with the treaty of peace, France ceded to Spain the remnant of her possessions on this continent. With this treaty commenced a new era for Louisiana. Its ancient forms of administration, and its entire system of laws, were changed. This transition was attended by afflicting events to the ancient population of the province, attached as they were to the land of their origin. Such was the delay attending the delivery of the province to Spain, that the people began to entertain a hope that the transfer itself was a mere simulation for the purpose of securing Louisiana to the crown of France, against the hazard of future wars. It was not until 1766, that Don Antonio de Ulloa was sent over to receive possession, in pursuance of previous instructions given by the king of France to D'Abadie. There hangs over the conduct of Don Antonio, an extraordinary mystery; although he remained two years in the province at the head of a military force, he appears never to have taken formal possession of the country, and was finally

compelled to withdraw, on his refusal to furnish the council his powers and instructions from the king of Spain. I am not aware that his report to his government has ever been made public. We are, however, fully warranted in believing that such a report was made, and that it formed the motive or the pretext for the sanguinary orders subsequently given to his successor, and led to the fatal catastrophe which ensued. If such a document exists, as we have every reason to suppose, a copy might be procured from Spain, and would throw great light on an obscure and interesting crisis in our annals. The bloody tragedy which followed on the arrival of Don Alexandro O'Reilly next year, the total abolition of the council, and the introduction of the laws of Spain, as over a conquered people, are well known. Until recently, however, the extent of O'Reilly's powers was a matter of conjecture; and although the courts have uniformly considered the whole body of the Spanish law as in force from the date of his proclamation and the French jurisprudence as abrogated, yet they were compelled, in a great measure, to judge of the extent of his authority by his official acts. Within a couple of years, documents have come to light, through the agency of our late Minister at Madrid, which go to prove, not only his original powers, but the approbation of the court of Spain of all his proceedings. Among other documents thus procured, is a copy of a royal order of the 28th of January, 1771, in which the king declares that he had in 1765 appointed Don Antonio de Ulloa to proceed to the province of Louisiana, and to take possession as governor, making, however, no innovation in its system of government, which was to be entirely independent of the laws and usages observed in his American dominions, but considering it as a distinct colony, having even no commerce with his said dominions, and to remain under the control of its own administration, council, and other tribunals. But he goes on to say, the inhabitants having rebelled in October, 1768, he had commissioned Don Alexandro O'Reilly to proceed thither, and take formal possession, chastise the ringleaders, and to annex that province to the rest of his dominions. That his orders had been obeyed, the council abolished, and a cabildo established in it splace, and the Spanish laws adopted. He proceeds to ratify and confirm all that had been done, and directs that Louisiana shall be united, as to its spiritual concerns, to the Bishopric of the Havana, and governed

conformably to the laws of the Indies. It was made a dependency of the Captain-generalship and royal Hacienda of the island of Cuba, and as relates to the administration of justice, a special tribunal was created, consisting of the Captain-generalship as president, the auditors of war and marine, the attorney of the Hacienda, and the notary of the government. To this tribunal appeals were to go, and from it to the council at Seville, without resorting to the audiencia of St. Domingo.

O'Reilly appears to have made a detailed report of his proceedings, consisting of six distinct statements. These statements have never, probably, been made public *in extenso*, but another document, procured at the same time at Madrid, contains a minute analysis of them. I allude to a report made to the king by the Council and Chamber of the Indies, to whom the whole matter had been referred. It is filled with the most extravagant encomiums upon O'Reilly. The profoundness of his comprehension, the sublimity of his spirit, the correctness of his judgment, the admirable energy displayed in his provisions for the civil, economical, and political government, his delicate knowledge and acute discernment of the laws of both kingdoms, as well as of the practical and forensic styles of the courts,—all of these are set forth in the most sublime bathos, the council adds, "that by the admirable arrangement of pay and distribution which he had proposed in the military and political classes, the treasury has gained (how much do you suppose, gentlemen?) one hundred and thirty dollars! which advantage is due to the comprehensive and indefatigable genius of the commissioner!" Miserable, cold-blooded, heartless calculators! at that very moment O'Reilly was the object of the just execration of the whole population of Louisiana. They had seen some of their best citizens, the élite of the country, immured in the dungeons of the Moro Castle, others shot down without mercy, without necessity, without a crime, unless it was a crime to love the land of their birth, the land in whose bosom repose the bones of their ancestors,—all entrapped at a moment of profound security and submission,—under circumstances of the most infamous treachery and duplicity, and mocked with the forms of a trial, under a statute written in a foreign language, and never promulgated in the province. Does no one yet survive, in this whole generation—no one yet lingering on the stage—who was an eye-witness of those transactions, from

whom we could hope to obtain a vivid picture of the grief, consternation, and despair, which smote the heart of the country, while the place d'armes of New Orleans was reeking with its best blood, that we might hold it up to the most remote posterity, as a comment on the specious bombast of the Council of Seville?

The commercial regulations proposed by O'Reilly, and which form the subject of his first statement, were undoubtedly liberal, and calculated to advance the prosperity of the province. They contemplated a wide departure from the rigorous monopoly with which the commerce of the Spanish colonies had been shackled: a free trade between Havana and Spain, the productions of Louisiana to pay no duties when imported into that port, and no duty to be levied on exports from Havana to Louisiana; the admission of all Louisiana vessels into all the ports of Spain as well as the Havana, provided that none but Spanish or Louisiana bottoms should be employed in that trade. This system met the entire approbation of the council, except that the exemption from the payment of duties should be considered only as temporary.

The second statement relates to the propriety of subjecting Louisiana to the same system of laws which prevailed in the other Spanish colonies, of carrying on legal proceedings in Spanish, the establishment of the New Appellate Tribunal, of which I have already spoken, with a direct appeal from it to the council. These arrangements were sanctioned by the council, with this proviso: that the Intendants of Hacienda and Marine should have a voice and vote in the proposed tribunal.

The third and fourth statements relate to the organization of the Cabildo, and the appointment of Don Louis de Unzaga as civil and military governor of the province.

The fifth details the new ecclesiastical and economical arrangements.

The sixth and last statement of O'Reilly informs the king that he had appointed a lieutenant governor for the district of Illinois and Natchitoches, encloses copies of his instructions, and proposes that the governor alone should have the power to grant lands, and that concessions should be made according

to certain regulations which he had adopted on the advice of well-informed persons. This is the well-known ordinance of 1770, of which I may have occasion to speak hereafter.

It cannot be denied, that in many respects the new government was liberal, and even paternal. Lands were distributed gratuitously to meet the wants of an increasing population, and direct taxation was unknown in the province. If the ratio of increase of the population be an index of its prosperity, Louisiana was certainly flourishing and prosperous. In sixteen years from the year 1769, the population was more than doubled by the ordinary means, independently of small colonies from Malaga and the Canary Islands. In 1711 it amounted only to four hundred, including twenty slaves. During thirty-four years of Spanish domination in this country, its resources were considerably developed, and Louisiana has been regarded, perhaps with justice, as the favored pet of Spain.

Gentlemen, it does not enter into my plan to go into any historical details relating to the different periods of our history; but my object is simply to call your attention to them, as worthy of minute investigation in the progress of our researches. Much interesting matter might yet be brought to light, illustrative of the characters of many distinguished persons who figured, and some of whom suffered, in the crisis I have already alluded to. What has become of the memorials and correspondence of Mihlet, who was despatched by the Louisianians to France, to entreat the king not to compel his loyal subjects to pass under the yoke of Spain? Who, that has read our earlier history, does not desire a more intimate acquaintance with the spirit of the times, and with the enterprising men who laid the foundation of the colony, and to investigate more minutely its gradual development?

II. I proceed to make a few remarks upon the second head of our proposed inquiries, to wit: the progress of our jurisprudence. The most important part of the history of a state is that of its legislation. Upon that depends its prosperity, and the character and pursuits of the people. It is not a little remarkable, that although successively an appendage of the monarchies of France and Spain, Louisiana never knew anything like a right of primogeniture and a privileged class. No part of feudality was ever known here, neither inequality in the

distribution of estates, nor fiefs, nor signories, nor mayorazgos. The grants of land were all allodial, and under no other condition than that of cultivation and improvement within limited periods; in fact, essentially in fee simple. The colonists brought with them, as the basis of their municipal law, the custom of Paris. By the charter in favor of Crozat, the laws, edicts, and ordinances of the realm and the custom of Paris, are expressly extended to Louisiana. To this custom, which we all know was a body of written law, may be traced the origin of many of the peculiar institutions which still distinguish our jurisprudence from that of all the other states of the Union. I allude especially to the matrimonial community of gains, the rigid restrictions on the disinheritance of children, and the reserved portion in favor of forced heirs, the severe restraints upon widows and widowers, in relation to donations in favor of second husbands and wives, by the *Edit des Secondes Noces;* the inalienability of dower, and the strict guards by which the paraphernal rights of the wife are secured against the extravagance of spendthrift husbands. The community of acquests and gains between husband and wife is altogether a creature of customary law, unknown to the jurisprudence of Rome, and even in those provinces of France formerly governed by the written law. It is said to be of German or Saxon origin, and during the régime of the first two races of the kings of France, the share of the wife was one-third, instead of one-half, of the property acquired during marriage, as regulated by the existing code. The introduction of the Spanish law, in 1769, produced but slight changes on most of these points. The general rules of descent, as regulated by the law of Spain, did not vary materially from those of the custom of Paris; a perfect equality among heirs was the essential characteristic of both codes. The points of discrepancy will form a curious subject of investigation to any one desirous of pursuing the inquiry. The existing code of this state has maintained to a certain extent those peculiarities, and they have become deeply rooted in the public mind.

O'Reilly, when he introduced by proclamation the whole body of the Spanish law, published a Manual of Practice. How far the practice was changed in substance, by that regulation, from what existed before, I am not prepared to say. It is to be presumed, from the character of those who had been previously engaged in the administration of the laws, that the practice was

very simple, and perhaps rude, and the records of judicial proceedings at these early periods are extremely meager. The order of the Commandant, after hearing the stories of both parties, was the decree to which all submitted.

Until the cession of the country to the United States, the writ of habeas corpus and the trial by jury were of course unknown here. Of the first, it is sufficient to say, that without it there can be no genuine personal security. Whatever we may think of the trial by jury, as a test of right or law, as a tribunal to decide upon the disputed rights of the citizens in civil cases, there is one point of view in which it may be regarded as above all price, namely, as the means by which the citizens become insensibly instructed in the great leading principles of the laws, and the foundation and extent of their rights. It is the best school of the citizen. The people assemble at stated periods to attend the sessions of the courts; the discussions are public; the neighbors of the parties are called on to act as jurors; they hear the laws commented on by counsel; they receive the instructions of the court, and retire to deliberate on their verdict. Each juror feels the responsibility under which he acts. Thus, the citizens, in rotation, are called on to perform highly important functions in the administration of the laws, and after serving a few terms, cannot fail to become pretty well acquainted with the great leading principles of the laws of their country, and more vigilant in maintaining their own rights. My own opinion is, that the trial by jury in the interior of this state has done more to enlighten the people, than all the means of education which have been provided by the munificence of the legislature. Many men who can neither read nor write, are yet capable of deciding as jurymen, a question of disputed right between two of their fellow citizens, with admirable discrimination. I think I can perceive, in this respect, a singular improvement in the general intelligence of the people since I came to reside here twenty-two years ago, especially among that class of our population to whom the trial by jury and the publicity of judicial proceedings were novelties. A friend of mine used to relate an anecdote, which illustrates this position. Two honest creoles were disputing about a point of law; said one of them, "How, do you think I don't know,

sir? I am a justice of the peace!" "And I," said the other, "I ought to know something about it, I have been twice foreman of the grand jury."

If I were to dwell longer upon the subject of our jurisprudence, this address would swell into a dissertation. Permit me to recommend this subject to your attention, and particularly an inquiry into the practical operation of the laws above referred to, which regulate the great relations of social and domestic life. Whether an equal participation of the wife in the property acquired during marriage—a right growing originally out of the presumed collaboration of the parties in a rude primitive state of society—ought still to exist in the present age of refinement and extravagance. Whether such a system be not productive of more frauds and injustice to creditors, and disruption of families and litigation, than of public good and domestic tranquility, are questions more proper for discussion in the halls of legislation than here; they belong rather to the legislator than the historian.

III. I should hardly be pardoned, if I dwelt long on the next subject embraced in our plan, the state of religion. I will confine myself to a single remark. Fortunately Louisiana was ceded to Spain after the Inquisition had, even in that country of bigotry, been disarmed of most of its terrors; and although in this country the Catholic religion was the only one openly tolerated, yet an attempt to introduce that most infamous of all human institutions was indignantly put down by the people and the local authorities.

IV. The condition of the Indian tribes comes next. The Indians! the Indians! whether subjects of history or heroes of romance, or mixed up in the miserable ephemeral dramatic trash of the day, always exaggerated, disfigured, caricatured. They have been represented by some as brave, high-minded, and capable of sustaining extraordinary privations; sometimes as cold, stern, taciturn; sometimes as gay, lively, frolicksome, full of badinage, and excessively given to gambling; sometimes as cruel, and even man-eaters, delighting in the infliction of the most horrible tortures. Some will tell you that they have no religious notions, no conception of a great first cause; others, that they have a simple natural religion; or as the poet has it:

"His untutored mind,
Sees God in clouds, and hears him in the wind;
His soul, proud science never taught to stray,
Far as the solar walk or milky way.
Yet simple Nature to his hope has given,
Behind the cloud-topped hill, an humbler heaven,
Some safer world, in depth of woods embraced,
Some happier island in the watery waste.
To be content, his natural desire,
He asks no angel's wings, no seraph's fire,
But thinks, admitted to that equal sky,
His faithful dog shall bear him company."

Some of the earlier historians represent the Natchez as worshippers of the sun, or worshippers of fire; as having a temple dedicated to the sun, keeping up a perpetual, a vestal fire. They conclude, of course, that those Indians must have been allied at least to the Peruvians or Mexicans, if not descended from the fire-worshippers of the East. The truth probably was, that in some miserable cabin or wigwam, a few chunks were kept burning, as is the case in every Indian encampment, and indeed in every well regulated kitchen. The fact is, that neither the pen of Cooper, nor the more eloquent and fascinating style of Chateaubriand, can inspire the slightest interest for their Indian heroes and heroines, in the mind of a man who has been much among the aborigines, and knows something of their real character and habits. With respect to those nations which yet exist, we are able to see for ourselves, and correct the false impressions which earlier writers may have produced. It is melancholy to look over the list of tribes, which were once scattered over the surface of lower Louisiana at early periods of the colony. How many of them are totally extinct! How many dwindled down to a mere shadow, and their feeble remnant confounded with some neighboring tribe! The Attakapas, the Carancuas, the Opelousas, the Adayes, the Natchitoches, the Natchez, where are they, and what monuments have they left us, by which any trace of their origin or their history may be known? Of the Natchitoches, only a single individual exists, and he has been adopted by the Cados. Who knows anything of the language of those nations? Their language, certainly among the most curious of the remnants of erratic tribes, and by which an acute philology might perhaps trace some affinities with other existing people, is known only to a few; and they are not of that class from whom the republic

of letters might expect some account of it. The powerful tribe of the Natchez is totally extinct; its last miserable remnant took refuge among the Chickasaws. There remain a few degenerate (if such beings can degenerate) descendants of the Tunicas, Chitemachas, Pacagoulas, Apalaches and Beloxis.

Neither the French nor the Spanish governments recognized in the Indians any primitive title to the land over which they hunted, nor even to the spot on which their permanent dwellings were fixed. They were often grantees of lands for very limited extents, not exceeding a league square, covering their village. They were sometimes permitted to sell out their ancient possessions, and had a new locality assigned them. Many titles of that kind exist at the present time, and have been subjects of judicial decision. But the policy of extinguishing the primitive Indian title, as it is called, by purchase, which prevailed universally among the English colonists, appears to have been wholly unknown to the French and Spaniards in Louisiana. The massacre of the French at Natchez, which led to the extermination of that tribe, was provoked by the atrocious attempt, by the commandant, to destroy their village at St. Catherine's, in order to annex the land to his own plantation.

There are many indications here, as well as in upper Louisiana and Ohio, of a race of men, long since extinct, who had probably made considerable advances in some of the useful arts, and perhaps the art of defence. In Sicily Island, in the parish of Catahoula, there is a curious circle of mounds, regularly disposed, embracing a large area of alluvial soil, but little elevated above high water mark. I believe the dwelling house of the present proprietor, Mr. Matthews, is built upon one of them. There are others equally curious on Black River; and near the village of Harrisonburg may yet be traced an extensive elevation of earth strongly resembling breast-works. The enemy against which these works were thrown up, was probably the Mississippi, whose waters once flooded the whole of that region at certain stages. The study of Indian mounds has heretofore led to no important discovery upon which much reliance can be placed. It is worse than idle to indulge in conjectures upon the origin of these monuments. A few skulls, picked up here and there, may indicate, perhaps, to the professed phrenologist, the former existence of a race more civilized than the

present Indians, more capable of combination, having the organ of constructiveness more amply developed; but no general conclusions can be safely drawn from indications so feeble and equivocal. It would be, in my opinion, equally philosophical to conclude with the poet,

> "The earth has bubbles as the ocean has,
> And these are of them."

That there are, among the existing race of aborigines, instances of extraordinary capacity and power of combination, a few individuals, infinitely superior to the common herd, is undoubted. What was the boasted Cadmus of antiquity, who introduced into Greece a few letters of Egyptian or Phenician origin, when compared with that poor, crippled Cherokee, of our own day, who, by the unaided efforts of mind, by the simple power of induction, invented perhaps the most perfect alphabet of any existing language?

Gentlemen: in these hasty and imperfect glances over the wide field of our proposed inquiries, I have purposely omitted to touch upon the last, or rather the present, era of our history, commencing with the annexation of Louisiana to the Federal Union, by far the most brilliant and important, and marked by great and interesting events. In relation to Louisiana, this may be properly designated as the epoch of constitutional, popular self government, and of steam, as applied to navigation. The documents which illustrate this part of our history are within our reach, and ought to be collected and preserved. Forty years ago, what was New Orleans—what was Louisiana? The mighty river which sweeps by us then rolled silently through an extended wilderness, receiving the tribute of its vassal streams from the base of the Rocky Mountains on one side, and the Appalachian chain on the other; its broad and smooth surface occasionally ruffled by the dip of an Indian's paddle, or a solitary barge, slowly creeping up stream to the feeble settlements in the interior. What are they now? This city has become the greatest mart of agricultural products on the face of the globe; and yonder river traverses a double range of states, peopled by freemen, who, by the miracles of steam, are brought almost in contact with the great market for the productions of their industry. That river is literally covered with floating palaces, which visit its most remote branches; and along the

extended levy fronting our port, a dense forest of masts exhibits the flags of every commercial nation in the world. At her annexation to the Union, the destiny of Louisiana became fixed—admitted at once to a participation in the great renown of the republic, connected with it by bonds of a common interest, she sprung forward, as it were by a single leap, from colonial dependence, to the glorious prerogatives of freemen, and to the enjoyment of the most luxuriant prosperity.

Gentlemen, let us endeavor to make a wise use of this prosperity, and do something for the cause of letters. Colleges are springing up under the generous patronage of the legislature, which promise soon to be amply sufficient for the education of the rising generation. The Medical College of this city, the offspring of private enterprise and sustained by the devotion of a few medical gentlemen to the cause of science, deserves public encouragement, and I trust will receive it. The Lyceum of this city promises to unite utility with all that is agreeable in the public discussion of interesting topics. Let us turn aside, occasionally at least, from the worship of mammon, and devote some of our leisure moments, stolen from mere sordid and engrossing pursuits, to the cultivation of liberal studies. Who does not sigh, sometimes, amidst the bustle and struggle of active life, to retreat upon the studies of his youth; to fly to his early friends; friends who never deceive him and never weary; to the society of the philosophers, poets, historians of past times, and to bask in the mild radiance of those great luminaries of the intellectual world; to renew again those studies—which, if you will allow me to paraphrase the splendid eulogism of the great master of Roman eloquence—studies which form the generous aliment of youthful mind; the hoped for delight of declining years; the best ornament of prosperity; in adversity our surest consolation and refuge; inexhaustible source of the purest pleasure, whether at home or abroad, whether engaged in the bustle of the city, or enjoying the sober tranquility of rural life?

FRANCOIS XAVIER MARTIN: SECOND PRESIDENT OF THE LOUISIANA HISTORICAL SOCIETY

Edited by WALTER PRICHARD

INTRODUCTION

Judge Francois Xavier Martin was elected president of the Louisiana Historical Society at the time of its reorganization in June, 1846, and he served in that capacity until his death on December 11th of the same year. He had succeeded Judge Henry Adams Bullard as President of the Society, and he was in turn succeeded by Judge Bullard.

When the Bench and Bar of New Orleans met on the day of the death of Judge Martin, to take appropriate action on the passing of their late distinguished colleague, it was particularly fitting and proper that they should have invited Judge Bullard to pronounce, at his convenience, a eulogy on the career of Judge Martin. Because of his close association over a long period of years with Judge Martin on the Supreme Court of Louisiana, Judge Bullard was perhaps more familiar with the career of Martin than was any other of his contemporaries.

After having been once postponed on account of inclement weather, this eulogy or "discourse" was delivered by Judge Bullard before a large audience in the Hall of the House of Representatives, on the evening of January 30, 1847. The address is a brilliant one, and it reflects great credit on Judge Bullard as well as being an excellent exposition of the life and services of Judge Martin. The address received favorable editorial comment in all the newspapers of New Orleans, and was even printed in extenso in at least one of them. It was also printed in full in Benjamin Franklin French's *Historical Collections of*

Louisiana, (Philadelphia, 1850, Part II, pp. 17-40). Because this address is inaccessible to most of the readers of the *Quarterly,* and because it is a brilliant account of the life, character, and public services of Judge Martin by one of his contemporaries who knew him best, it is thought quite appropriate to reprint it here in full, at the time of the celebration of the Centenary of the Louisiana Historical Society.

A DISCOURSE ON THE LIFE, CHARACTER, AND WRITINGS OF THE HON. FRANCOIS XAVIER MARTIN, LL. D.

Late Senior Judge of the Supreme Court, and Second President of the Historical Society of Louisiana.

By HENRY A. BULLARD,
One of the Late Colleagues of the Deceased.*

Gentlemen:—

It has been the usage of most polished nations, on the demise of men who had become eminent in any of the departments of public affairs, to set apart a short time to be devoted to the consideration of their merits and their services. If they had deserved well of their country—if they had left their impress on the generation in which they flourished, it is proper that their memory should go down to posterity accompanied by the testimonials of their contemporaries. This is less important in relation to the successful soldier who has fought the battles of his country, and the distinguished statesman who has skillfully piloted the vessel of state, because history is almost exclusively devoted to recount their exploits and blazon their triumphs; but those whose fame is to be measured by their usefulness, during a long and noiseless career, in the more tranquil and less ambitious pursuits of life, and especially in the magistracy, ought not to be permitted to pass off the stage without dwelling for a few moments upon their merits, and holding them up as examples worthy of being followed by the generation which is to succeed us.

It was in compliance with this usage that the Bar of New Orleans, on the demise of Francois Xavier Martin, did me the honor, as the oldest of the late colleagues of the deceased, to request me to pronounce, on this occasion, a discourse upon his life and character. Of a man whom I have known for more

*Reprinted from B. F. French, *Historical Collections of Louisiana*, (Philadelphia, 1850. Part II, pp. 17-40).

than thirty years, nearly twelve of which were passed in the discharge of arduous duties by his side, it is impossible for me to speak in the set phrase of common-place eulogism—such language would be unsuited for the occasion—unworthy of him and of myself. I shall endeavor rather, by spreading before you what he has accomplished, and what he has written, to let him portray himself, and thereby show you what eminent qualities he possessed as a scholar, a jurist, and a man.

Judge Martin was born at Marseilles, in France, on the 17th of March, 1762, and descended from one of the most ancient and respectable families of Provence. His father was a merchant of high standing, a man of piety and extreme exactness in the management of his business. He was the third of a large number of children. His early education was strictly domestic, and his studies were conducted by a learned ecclesiastic, who acted at the same time as chaplain of the family. Under his tuition he acquired a critical knowledge of the Latin language, and the elements of the English and Italian. As he was destined for commercial pursuits, his education, up to the age of seventeen, was such as to qualify him for that profession. So exact was his knowledge of Latin, and his recollection of some of the classics, that he was fond of reciting, at a very advanced age, long passages from Horace, who was his favorite author.

He had one uncle, who was connected with the French army in Canada, in the commissary department, about the time of the conquest of that province by Great Britain; and another in Martinique, who had the supply of provisions for the French navy in those seas, and who had amassed a considerable fortune. He was a bachelor, and somewhat advanced in years. Young Martin, at the age of about seventeen or eighteen years, sailed for Martinique, with a view of joining his uncle, and going into business under his auspices, and by his assistance. He had not been long there, before his uncle concluded to return to France, where he died soon afterwards. He withdrew his capital from business, but left his nephew the means of commencing an establishment on his own account; but through youth and inexperience, he was unsuccessful. How long he remained in the island, I have not been able to learn with much precision—it is supposed about three or four years. Having

been interested in commercial adventures to the Carolinas, where the person concerned with him had died, he embarked on board a schooner bound for North Carolina, in hopes of recovering something which was due to him. In this also he was unsuccessful. It is under such circumstances that the subject of this memoir found himself in Newbern, North Carolina, at the age of about twenty, destitute of resources, among strangers whose language he understood imperfectly, if he could speak it at all. But he did not suffer himself to despair; ashamed to return to his native place, he determined to employ to the best account the means which his early education had furnished him. He engaged in various pursuits, and among others the teaching of the French language. It occurred to him that something might be done in the printing business, of which he was at that time entirely ignorant. He offered himself to the only master printer then in Newbern, by the name of James Clark, a kind-hearted man, who gave him employment in his office. But finding that young Martin knew nothing of the practical business of a compositor, he made the remark to him. The excuse given by Martin was that the types are distributed in the boxes differently in France, and that it would take some time to get the run of them. The good easy man was patient with him, until he became a very expert compositor, and continued for some time in his employment. In the mean time, he became more generally known, acquired a better knowledge of English, and wherever he was known was respected for his industry and diligence. He finally either bought out his first employer, or with the assistance of friends purchased an old font of types and a press, and set up for himself as a printer. He published a newspaper, school books, almanacs, the journals and acts of the general assembly, and did other jobs of that kind, until his establishment became somewhat lucrative.

His connection with the press inspired him with the idea of devoting himself to the study of the law. In this he was encouraged by several friends, but especially by one who was at the same time eminent in the profession, and possessed a liberal mind. That man was Abner Nash, who had become acquainted with him, discovered his capacity, his classical attainments, and his constancy in adverse fortune. It was under the auspices, and with the assistance of Mr. Nash, that he prosecuted his

legal studies. Judge Martin always spoke of that gentleman as his early benefactor and friend.

He was of course first educated in the common law, and at that time acquired the accurate and extensive knowledge of its principles which marked his whole future career in his profession. He was a great admirer of those strong barriers which that system of laws throws around the personal rights of the citizen, against the invasions of arbitrary power—of its broad distinctions, the flexibility with which it adapts itself to the progressive changes of society, and the complex transactions of man. Hence he sometimes felt himself cramped by the restraints of a written code—and I remember that perhaps on more than one occasion, when reminded by counsel of that injunction of the Louisiana code which forbids the judge disregard the *words of a law* under *the pretext* of pursuing its spirit, he replied, "Certainly never *under the pretext* of pursuing its spirit; but if, in the sincere desire to ascertain the will of the lawgiver, you discover that it would be violated by giving a literal interpretation of the words he has employed to express it, you are bound to give those words a reasonable interpretation, rather than that which corrodes the text and frustrates in truth the will of the legislator."

I have not been able to ascertain precisely at what period he was admitted to the bar. But it is certain that he engaged in practice to a considerable extent, became extensively known as a sound and able lawyer, and one of the most distinguished sons of North Carolina. William Gatson, who at different periods of his life was remarkable for his eloquence as a member of Congress, and his ability and learning as a judge of the Supreme Court of that State, was a student in his office.

During the earlier part of his career as a lawyer, he prepared and published a small treatise on the duties of sheriffs, and another relating to the duties of justices of the peace, and a third upon executors and administrators. These works were useful compilations to that class of public officers. They were prepared by him partly to profit by the printing of them himself, but principally with a view of impressing more deeply on his own mind the principles and rules of those branches of the law. It was indeed his favorite mode of study, and one which he frequently recommended to young men to pursue.

At a later period, he was encouraged by the legislature of North Carolina to prepare a compilation of the British statutes which were in force in that State at the period of the revolution. It was a work of immense labor to examine critically the whole body of British statutory law, with a view of ascertaining which of them were applicable to that colony. I have often heard him express his surprise at finding how very few acts of Parliament existed which had any relation to the general principles of the English law, which appear to have been left almost exclusively to the courts of justice. Most of them related to mere fiscal regulations, and there was not to be found a single enactment which related to the order of descent and the distribution of estates. The whole rested upon immemorial usage. We certainly did not inherit from our English ancestors our rage for excessive legislation.

It was while preparing this work that the idea occurred to him of collecting materials for the history of North Carolina, which was not, however, published until 1827, but may as well be mentioned in this connection. As early as 1791 his attention was turned to that subject; but having been employed in 1803, by the legislature of North Carolina, to publish a revisal of the acts of the General Assembly, passed during the proprietary, royal, and state governments, he acquired in carrying out the views of the legislature such information as suggested to him the idea of collecting more ample material for such a history. Having been afterwards elected a member of the House of Commons, as the representative of the town of Newbern, he had access to the records of the State. These materials, so far as they related to transactions before the revolution, he had already arranged before he came to Louisiana. The history was published in New Orleans, in two volumes, octavo. It relates to the history of the Carolinas before the revolution, preceded by a sketch of the discovery and first settlement of the other British colonies in North America. This work evinces great labor and research. It appears from the preface that the author had prepared ample notes and materials for a continuation of his history through the war of the revolution, and bringing it down to the year 1810, when he left North Carolina. But the continuation of the work never was written out.

In the year 1802, Judge Martin gave to the profession the first translation into English of the treatise of Pothier on Obligation. Its publication preceded by about four years the appearance of that of Evans, in England, with ample and useful notes—and its circulation, though extensive in the United States, was probably curtailed by that circumstance. While the publication of this work in English was a valuable addition to the library of the American bar, as it embodies the quintessence of the law of contracts and obligations in general, equally authoritative wherever the written reason of the Roman law is respected, the preparation of it for the press tended to imprint more deeply on the mind of the translator the principles of that branch of the civil law, and to direct his attention to the original sources from which they flowed. He thus became thoroughly acquainted with that great work, the masterpiece of its author—and so completely master of the subject, that it appeared to have become a part of the texture of his own mind—and to the last he exhibited a surprising familiarity with the principles which it unfolds with equal simplicity and precision.

It was thus that François Xavier Martin, thrown in his youth among strangers, with whose language he was imperfectly acquainted, by unwearied diligence and rigid economy, uniting the study and practice of the law, with the superintendence of a printing press, not only emerged from poverty to an easy competency, but became the associate of the ablest men of his day in North Carolina, and acquired those stores of knowledge, both of the civil and the common law, which prepared him for eminence and usefulness in the new and more extended theatre to which he was soon afterwards called.

Those who have experienced in themselves that sinking of the heart, that utter solitude of soul, which is produced by being cast in youth, destitute and among strangers, without a profession—far from the endearments of home—without experience—without a guide—without a patron—chilled by the cold indifference of the surrounding crowd—even although those among whom he is thrown may be connected with him by the sympathies of a common language and a kindred origin, may form some conception of that firmness of purpose, that energy of character, which enabled the subject of this notice, under circumstances still more discouraging, to triumph over "the slings and arrows of outrageous fortune."

So favorably was Mr. Martin known at that time to the public, that as early as the winter of 1809, towards the close of Mr. Jefferson's administration, he was designated as a proper person to be appointed one of the Judges of the Superior Court of the Territory of Mississippi. His commission was issued under the signature of Mr. Madison, on the 7th of March, 1809, three days after his inauguration as President of the United States. He continued but a short time in that Territory, and on the death of Judge Thompson he was commissioned on the 21st of March, 1810, a Judge of the Superior Court of the Territory of Orleans, and shortly afterwards entered upon the duties of that office in this city.

Before I proceed to detail the labor of the deceased in Louisiana, let us pause for a few moments and consider the condition of things here at that time, and especially the state of our Jurisprudence.

Seven years before the period of which I am speaking, Louisiana was a Spanish Province; governed by a system of laws written in a language understood by only a small part of the population, and which had been forced upon the people at the point of the bayonet by O'Reilly, and which superseded the ancient French laws by which the Province had been previously governed. Upon the change of Government, the writ of habeas corpus, that great bulwark of personal liberty, had been introduced, together with the system of proceedings in criminal cases, and the trial by Jury, according to the principles of the Common Law. In 1808 was promulgated the Digest of the Civil Laws, then in force in Louisiana, commonly called the Old Code. That compilation was little more than a mutilated copy of the Code Napoleon. But instead of abrogating all previous laws, and creating an entire system, as had been done in France by the Code Napoleon, superseding the discordant customs, ordinances and laws in the different departments, our code was considered as a declaratory law, repealing such only as were repugnant to it, and leaving partially in force the voluminous codes of Spain. The Superior Court had already been organized for some years, and was composed of three Judges, any one of whom formed a *quorum*: and as the several Judges then sat separately in the different Districts, each could pronounce a judgment in the last resort. There was no means of establish-

ing uniformity of decision: no publicity had been given to the decisions, and the public was without any guarantee for their uniformity. The law was wholly unsettled, and in a state of chaos. The Court of Cassation in France had begun, it is true, to fix the interpretation of their Code, but the rules applicable to ours were obviously different in many respects, in consequence of the manifest difference in their creating and repealing clauses. It became necessary to study and compare the French and the Spanish Codes, and although the Roman Law never had, *proprio vigore*, any binding force here, yet in doubtful cases, or in cases in which the positive law was silent, it might well be consulted as the best revelation of the principles of eternal justice, and, as it were, an anticipated commentary upon the Code.

Judge Martin felt at once the difficulty of the task before him, and he determined to commence without delay the publication of Reports of cases decided by the Superior Court. He was induced to undertake that labor for the double purpose of giving publicity to the decisions of the Court, in the nature of a *compte rendu* to the people, and thus guarding against misrepresentations or misapprehensions, and to insure to a certain extent uniformity of decision. The first volume appeared in the spring of 1811, and a second in 1813, bringing down the decisions of the Court from 1809 to the establishment of the State Government.

At that period, a Supreme Court was created, having appellate jurisdiction only. That Court was at first composed of Judges Hall, Matthews, and Derbigny, and Judge Martin was appointed the first Attorney-General of the State, on the 19th of February, 1813. He was an able criminal lawyer; and although it has been said he was not eloquent, yet he is admitted to have discharged the duties of that office with zeal and ability. After the resignation of Hall, he was appointed a Judge of the Supreme Court on the first of February, 1815. From that period he continued in office until the 18th of March, 1846 —a period of more than thirty-one years. He entered on his eighty-fifth year on the very day he was superseded by the appointments under the new constitution.

The time at which Judge Martin was appointed to the Supreme Court, will ever form a memorable epoch in the his-

tory of Louisiana. A powerful invading army menaced the Capital; the citizens were in arms; Martial law had been proclaimed by the General in command, and by an act of the Legislature passed on the 18th of December previous, all judicial proceedings in civil cases were suspended until the first of May; no business was transacted at the January and February terms of the Court. In the meantime, the enemy had been repulsed and peace restored. Official information, however, had not yet reached here of the treaty of Ghent, and when the Court met early in March, martial law was still in force. A motion was then made that the Court should proceed to the trial of a particular case then pending. This motion was resisted on two grounds: first, that the city and its environs were, by general orders of the officer commanding the Military District, put, on the 15th of December previous, under *strict Martial Law;* and secondly, that by the third section of an act of Assembly, approved on the 18th of December, all proceedings in any civil case were suspended.

It was upon this occasion that Judge Martin pronounced his first opinion as a Judge of the Supreme Court, and the judgment of that Court upon these two important questions of Constitutional Law. In answer to the bold and novel assertion that by the proclamation of martial law the officer who issued it had conferred upon himself, over all his fellow-citizens within the space he had described, a supreme and unlimited authority, which being incompatible with the exercise of the functions of Civil Magistrates, necessarily suspends them, he declared that the exercise of an authority vested by law in that Court could not be suspended *by any man.* He then went into the question as to the power of the Executive, or any subordinate acting under the authority, to suspend the regular operation of the laws, and the writ of habeas corpus; and he demonstrated by unanswerable arguments, and by the highest authority both in the United States and in England, that it can only be done by Legislative authority. He showed that in England, martial law could not be declared to the extent contended for but by the authority of Parliament, and that even during the invasion of the Pretender, the Crown did not assume that power, but referred it to the decision of Parliament. The second point involved also an important question of constitutional law, and the application of that clause in the Constitution of

the United States, which prohibits the State Legislatures from passing any law impairing the obligation of contracts. Upon this part of the case, he argued that the obligation of the contract referred to in the Constitution consisted in the necessity every man is under, *in foro legis*, to do or not to do a particular thing: that the Constitution spoke of the *legal* obligation rather than the *moral*, and that any law assuming to interfere between the debtor and the creditor, and absolutely recalling the power which the creditor enjoys of compelling his debtor, *in foro legis*, to perform his contract, would be a law impairing its obligation: and that a law destroying or impairing the *remedy* is as unconstitutional as one affecting the *right* in the same manner. He goes on to show that a law procrastinating the creditor in his remedy, generally speaking, destroys a part of the right, on the principle that he who pays later pays less—*mimus solvit que serius solvit*. But he continues: "It does not necessarily follow that an act called for by other circumstances than the apparent necessity of relieving debtors, one of the consequences of which is nevertheless to work some delay in the prosecution of suits, and consequently to retard the recovery and payment of debts, must always be declared unconstitutional. In making a contract, each party must know that his legal remedy must depend on the laws of the country in which he may institute his suit. That the *lex loci* as to his remedy, even in the States that compose the Federal Union, is susceptible of *juridical improvement*. That the number of Courts of original and appellate jurisdiction, the nature and extent of the respective jurisdiction of these, the number, time and duration of their sessions, must from time to time, especially in new and growing settlements, be regulated by the Legislature, according to the wants and exigencies of the country." He adds that in times of war, domestic commotion or epidemy, circumstances may imperiously demand for a while even a total suspension of judicial proceedings: that under such circumstances, the Courts might of their own authority be justified in adjourning, and that the Legislature might well declare the necessity of such an adjournment, and, with a view to that order and regularity which uniformity produces, fix a day on which judicial business might be resumed, without impairing the obligation of contracts. The act of the Legislature was therefore declared to be of binding force.

These two great principles, that the habeas corpus cannot be constitutionally suspended by an Executive or Military authority, and that the Legislative power is itself incapable of impairing the obligation of private contracts, form the very basis of constitutional freedom in a government of laws. The Courts, governed by the Constitution as the supreme and paramount law, are guardians of both.

The elaborate treatises and numerous adjudged cases published since that day have thrown but little additional light upon that part of Constitutional Law. These principles have been, it is believed, uniformly recognized as sound, and especially by very recent decisions of the Supreme Court of the United States. Indeed, it may be asserted without hesitation that Judge Martin was an able constitutional lawyer, well acquainted with the complex machinery of our American Governments. It is a branch of public law, with which the Jurists of England and of the Continent are very imperfectly acquainted, because it is here alone that a great central power exists, round which numerous co-ordinate, though limited sovereignties, revolve, in well defined orbits, and their centrifugal tendencies are controlled and counteracted by the insensible attraction of the great centre; and where the Judicial tribunals are invested with the power of pronouncing, in all cases assuming a Judicial form, upon the validity of acts of ordinary legislation emanating from either, and thus maintaining the harmony and regularity of the whole system.

And here let me remark, once for all, that Judge Martin exhibited on that occasion, as well as every other, during his long Judicial career, the highest degree of moral courage and firmness of purpose. Nothing could deter him from the fearless expression of his opinion, without the slightest regard to persons. To him, it was quite immaterial who the parties were; as much so as it is to the Geometrician by what letters may happen to be designated the angle he is about to measure.

The first opinion pronounced by him affords also a fair sample of his style as a writer. It is true his style underwent a great change at a more advanced period of life—but at the time I am speaking of, it was plain and strong, and free from ambiguity, and much more copious than in after life. He came

at last to pride himself upon the terseness of his style and his great brevity, and often repeated the injunction of the poet:

"Saepe stylum vertas, iterum quae digna legi sint
Scripturus ————————;"

though he sometimes appears to have forgotten another caution of the same author:

"Brevis esse laboro, obscurus fio."

Judge Martin did not lose by removing to Louisiana his fondness for bookmaking. Besides other publications which I shall have occasion to mention, he published in 1816 his Digest of the Territorial and State Statutes up to that time, called "Martin's Digest," in two volumes, in French and English. This work was undertaken under a resolution of the General Assembly. It is mentioned mainly to show with what indefatigable industry he pursued his labors, besides those of the Bench, and his constant devotion to studies connected wtih his profession. His Digest was in constant use by the profession for many years.

He continued to publish his Reports of the Decisions of the Supreme Court until 1830, and, including the two small volumes containing the Decisions of the Superior Court, already mentioned, he produced twenty volumes, embracing the entire period from 1809 to 1830. During nearly all that time from 1810 he was one of the Judges, and performed his full share of the labor of the Court. The opinions prepared by him exhibit evidences of deep learning and extensive research, while at the same time he superintended himself the printing and publication of his Reports.

But what is most surprising is that, while thus engaged in groping his way with his colleagues through the labyrinth of our earlier law, often bewildered by the cross-lights of conflicting codes and discordant commentators—while thus assiduously employed, and doing his full share in reducing it to something like a regular system—he should have found time to collect, from various sources, both public and private, very ample materials for a History of Louisiana. His History was put to press in 1827, and narrates the principal events in the Province, Territory and State, from its first settlement down to the Treaty of Ghent. It contains many curious and interesting statistical tables, showing the comparative state of commerce,

agriculture, and population, at different periods. Its pages exhibit to the young Louisianian, to use the language of the author in his preface, his remote progenitors—a handful of men, left on the sandy shore of Biloxi, harassed during the day by the inroads, disturbed at night by the yells, of hostile Indians—the incipient state of civil government under the authority of the Crown—the tardy progress of agriculture and trade under the monopolies of Crozat and the Western Company—the massacre of the French among the Natchez—the destruction of that nation and the subsequent war with the Chickasaws—the slow advances of the Colony after the Crown resumed its government—the cession to Spain, and the languishing state of his country while a Colony of that Kingdom—and may afterwards behold the dawn of liberty on his natal soil under the Territorial Government of the United States, and finally the rise of Louisiana to the rank of a sovereign State. The subject is one full of romantic interest, and though not treated by our author in the most attractive form, yet the work is always referred to with entire confidence in the historical accuracy of its statements, and of the events which it records. It is a faithful repository of materials for a more extended and elaborate history. It is however, upon the juridical labors of Judge Martin that his fame must hereafter rest. He became, at the same time, so extensively and favorably known as a jurist and a scholar, that he was elected in 1817, a member of the Academy of Marseilles, his native place. Some years afterwards the University of Nashville, in Tennessee, conferred on him the degree of Doctor of Laws; and in 1841, the University of Cambridge, the oldest College in North America, honored him with the same degree.

It is manifestly impossible to speak of the judicial labors of Judge Martin, without embracing a view of those of his colleagues, at least as low down as 1834, when Judge Porter retired. It was during that period the greatest changes took place in our positive Legislation, and in the development of our Jurisprudence. In 1825 the Code was amended, and among the amendments were embraced many of the principles already settled by the Supreme Court. About the same period, the Code of Practice was promulgated; and its first effect was to unsettle the practice, and to give rise to an infinite number of intricate and difficult questions; and finally, in 1828, all the

old Civil Laws of the country were abrogated. From that period the Spanish Law ceased to have any force here, and it was no longer necessary to recur to it as the guide of decision, except in the few cases which arose before that period. The study of the Spanish law was no longer prosecuted, except as a matter of curiosity, and the adjudged cases, which turned upon some principle or exception of the Spanish law, could not always be safely followed under the new legislation of the State. The new Code introduced many important modifications, particularly relating to restrictions upon testamentary dispositions—changing the rules of inheritance—providing something like a regular administration of estates, and in other respects profiting by the able commentaries which had already appeared in France upon the Napoleon Code. The system was much more complete, though not entirely free from provisions—apparently contradictory—but it was certainly a great approximation to what Lord Bacon in one of his aphorisms regards as the best law—that which leaves the least room for the discretion to the Judge.

It cannot be expected that I should enter on this occasion much at large on the labors of the Court during the period I have mentioned. There is, however, one class of cases depending upon that branch of international Jurisprudence, called the conflict of laws, which engaged its attention more frequently than perhaps any other Court in the United States. This arose from our peculiar position. This great commercial emporium, having relations with most of the States of the Union, and most of the nations of Europe, which are governed by different laws, and many emigrants being married abroad and under other *Regimes*, and acquiring property here, innumerable questions arose touching the rights of the parties, and the construction of contracts executed abroad, or entered into here, to have their effect elsewhere. These questions were often perplexing, and it is generally conceded that the decisions of that Court threw great light upon the subject, and satisfactorily solved most of the questions thus presented. Such at least is the opinion of Judge Story, as expressed by him in perhaps the most learned, though not the most satisfactory of his able Treatises upon different branches of the law—I mean his Commentaries on the Conflict of Laws. There is one opinion, however, delivered by Judge Martin, upon which a single remark may not be amiss

—I allude to the case of Humphreys & Dupau. The question was whether a promissory note, made here and payable in New York, bearing a rate of interest not permitted by the laws of New York, was valid or usurious. The Judge put forth on that occasion all his learning, ingenuity, and even subtlety, to show that the validity of the contract, though to be executed in New York, was to be tested by the laws of Louisiana. The decision did not escape the censure of Judge Story, who, in his first edition of his Conflict of Laws, comments on it somewhat at length, and endeavors to show that it is erroneous in itself, and even unsupported by the authorities cited in support of it. Judge Martin never possessed any improper obstinacy or pride of opinion; on the contrary, he was always open to conviction, and often yielded his first conclusions to the force of argument and authority. But on that occasion he was tenacious of his opinion —so much so that when he visited the North some years afterwards, he repaired to Cambridge for the purpose principally of discussing with his critic the doctrines maintained by him in the case above alluded to. He thought he had on the way enlisted Chancellor Kent as an ally in the controversy; whether it was so is questionable. He, however, repaired to Cambridge, and a long discussion ensued. As usual among lawyers, each maintained his ground, and each was confirmed in his opinion by his own arguments. In the next edition of the Conflict of Laws, the learned author returns to the charge, and combats, at much greater length the soundness of that decision. Under such circumstances, it may well be doubted, to say the least of it, but it will depend on others whether it shall be ultimately overruled.

"Non nostrum est tantas componere lites."

Not only was Judge Martin aided in moulding into form and symmetry our system of Jurisprudence, by the quick perception of what is just, and the instinctive sense of equity of Mathews, and the more ardent industry and extensive research and erudition of Porter, and previously by the unpretending but extensive learning of Derbigny, but the period between the organization of the Territorial Government and the repeal of the Spanish Law was the classical age of the Bar of Louisiana. The Court was assisted in its researches, and enlightened in its path, by the various learning and elegant scholarship, and pro-

found knowledge of different systems of Jurisprudence of Livingston and Brown, Workman and Moreau Lisbet, and Duncan, and numerous others. It does not become me to speak of the survivors of that distinguished corps. They form the living and brilliant link which connects that generation of lawyers with the present. It was then the source of the Roman, Spanish, and French laws were extensively explored, and a taste for *comparative Jurisprudence* was created for the first time in the United States. The principles of the common, the customary, and the Roman laws were invoked together, and placed in juxtaposition. The illustrious writers on Jurisprudence of the 16th century in France, Spain, Italy and Germany were consulted and compared. The most antiquated of the Gothic Codes were studied, not as monuments of literary curiosity, but as fragments of pre-existing systems of human laws, originating either with the Romans or their barbarian conquerors. The whole of these various and often discordant materials were fused into one mass, and the Court left to select such principles as appeared most consonant with the general scope and enactments of the Codes. Whoever has read the first twenty-five volumes of our Reports cannot fail to have observed what vast stores of legal erudition were brought to light in the discussion of leading cases, and how much the range has been narrowed since our jurisprudence has become better settled, under the more full and explicit text of the new Code.

It is thus we have witnessed the formation, even its process of crystallization, as it were, of the existing Jurisprudence of Louisiana.* Its ingredients are derived from various sources,

*The jurisprudence of Louisiana is a mixture of the Roman, French, and Spanish law, tinctured with no inconsiderable portion of the common law of England, as understood and expounded in the sister States of the Union, especially in criminal and commercial matters. These different elements of law are, however, blended in so confused a manner, that it is often extremely difficult to trace the lines of demarcation, or to determine what the law is on any given subject.

When the province of Louisiana was transferred to the United States, the colonial laws of Spain did, at least to a certain extent, govern the country, although in point of fact, beyond the precincts of the capital, the military posts scattered far apart over its immense territory, and the settlements contiguous to and dependent on them, there were neither judges, nor any regular administration of justice.

The indolent, arbitrary, and yet paternal government of Spain felt really little interest in the prosperity of the colony, from which it derived no revenue, and which it had acquired and preserved, rather with a view of debarring all foreign access to New Spain, than from any desire of enriching itself by the productions of the soil, or to profit by the exhaustless resources of the country, which the industry and enterprise of its present possessors have so successfully explored. Spain, nevertheless, with its habitual love of display, had established a colonial government, surrounded with the insignia of royalty, and having an administrative hierarchy dependent on it, which, though of little practical utility, and attended with much useless expense, still gave to the whole a semblance of power and regularity, which was sufficient, under ordinary circumstances, to inspire respect on the part of the colonies.

When the United States had acquired possession of Louisiana, this form of government necessarily disappeared, and the new one introduced was framed with the simplicity and economy suited to republican habits and institutions.

Changes in the legislation, as well as in the administration of the laws of the country,

and after being filtered through numerous codes, meet in one harmonious mass. The protection of wives, incautiously engaged for the contracts of their husbands, rests upon a Roman Senatus Consultum—their ultimate rights in the property acquired during the marriage, upon the customs of the erratic tribes that overrun Gaul, and were carried by the Visigoths across the Pyrenees. The wisdom of Alphonso is found infused

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became of course indispensable; but they were made with great caution and care was taken neither to shock received opinions, nor to change abruptly institutions which had the sanction of long usage, and to which the inhabitants had become attached. Notwithstanding all these precautions, murmurs and discontents were often heard shortly after the cession of the colony, which the firm and conciliating conduct of Congress and of Mr. Jefferson soon succeeded in appeasing, and which a few years of increasing prosperity wholly effaced.

In the meantime, the territory of Orleans was severed from the rest of the ancient French colony of Louisiana, and erected into a distinct portion of the Union, the executive department of which was under the direction of a governor, the legislative in the hands of a council, and the judiciary under the direction of three judges, elected every four years, and certain inferior magistrates.

The highest court of judicature, called the Superior Court of the territory of Orleans, was composed of three judges, of which one constituted a *quorum*, and was invested with original and appellate jurisdiction in criminal and civil cases.

The criminal law, which had governed Louisiana prior to its transfer, was entrely abolished, and in its place were substituted certain penal statutes providing for the punishment of offences, which they did not define, but left the definitions to be sought for at common law, in reference to which all future criminal proceedings were to be conducted.

Civil suits were brought by petition, and the practice was simple.

In relation to the civil jurisprudence of the country, the necessity was immediately felt of reducing it to some sort of order, to enable those who had been appointed to govern, as well as to judge, to know what it was, a fact of which, at the time of their appointment, they were profoundly ignorant. The legislative council, having made a vain attempt to "*procure* a civil and criminal code for the 'territory'," to use the language of Judge Martin, the first territorial legislature appointed, in the year 1806, Messrs. James Brown and Moreau Lislet, two members of the bar, to prepare a digest of the laws in force in the territory. These gentlemen, having finished the task imposed on them in 1808, reported "a Digest of the civil laws now in force in the Territory of Orleans, with alterations and amendments, adapted to the present form of government," which was adopted by the Legislature, and constitutes what is at present called the *old Civil Code*.

The gentlemen thus appointed to prepare a digest of the laws in force in Louisiana, instead of looking to the Spanish colonial law, and consulting exclusively the *Partidas* and the *Recopilacion de las Indias*, &c., as they surely would have done had the Spanish law alone been in force, transcribed literally, and incorporated into their Digest large portions of the *projét* of the *Code Napoleon*. The reasons assigned for this by Judge Martin is, that no copy of the Code Napoleon, although promulgated in 1804, had as yet reached New Orleans. The same learned, and we must add, accurate writer, in all which concerns contemporaneous events, speaks of this conduct on the part of the compilers of the Digest as praiseworthy, adding that, "although the project is necessarily much more imperfect than the Code, it was far superior to anything that any two individuals could have produced early enough to answer the expectations of those who employed them."

Judge Martin says—"The *Fuero Viejo*, *Fuero Juzgo*, *Partidas*, *Recopilaciones*, *Leyes de las Indias*, *Autos Acordados*, and *Royal Schedules* remained part of the written law of the territory, when not repealed expressly, or by a necessary implication." And he adds:—

"Of these musty laws the copies were extremely rare; a complete collection of them was in the hands of no one, and of very many of them not a single copy existed in the province."

"To explain them, Spanish commentators were consulted, and the *Corpus Juris Civilis*, and its own commentators were resorted to, and to eke out any deficiency, the lawyers, who came from France or Hispaniola, read *Pothier*, *D'Aguesseau*, *Dumoulin*," &c.

The result of the labors of Messrs. Brown and Moreau Lislet was a Digest, containing upwards of 500 pages, printed in English and French, and divided into three books, of which the first treats of persons; the second of things or estates; and the third of the different manner of acquiring the property of things. Each book is subdivided into titles, and each title into chapters and articles. This Digest is the groundwork of the Civil Code actually in force in Louisiana, from which it does not differ very essentially.

Louisiana having become a State in 1812, organized in 1813 a Supreme Court, composed of three judges, which, in conformity with the 2d section of the 4th article of the Constitution of the State, had "*appellate jurisdiction only, which jurisdiction shall extend to all civil cases, when the matter in dispute shall exceed the sum of three hundred dollars.*" It is from this period that the jurisprudence of the State began to assume some definite form, and to extend itself so as to embrace the numerous controversies which soon arose among an intelligent, commercial, and litigious population.

The Supreme Court thus formed and constituted, had most arduous and difficult duties to perform—duties which required, besides the patience, learning and integrity always requisite to discharge the functions of a judge, incessant and laborious researches into the ancient jurisprudence of Rome, France and Spain, joined to a thorough knowledge of constitutional law, and an intimate acquaintance with the habits and wants of the people, on whom the decisions were to operate.

into many of the institutions which owe their origin to Alfred the Great. The common law has paid back a part of what it had borrowed from the Roman Jurisprudence. The commercial law, standing out almost independently of the Code, rests in a great measure upon the usages of commercial States, but more especially of the United States and Great Britain, but slightly modified by positive local legislation. The whole body of our law thus forms a system, most admired by those who understand it best, and who can trace back its principles to the sources from which they originally flowed. Of the springheads of our law it may be said, as it has been of the waters Castalia:

> "There shallow drafts intoxicate the brain,
> But drinking deeply sobers us again."

If I might be allowed to enlarge still further upon this interesting topic, I would say that the same process of the formations of laws has been going on in all ages, and in every region within the range of history. Conquest, and commerce, and the migration and intermingling of races have everywhere brought about changes of laws. The oracular obscurities of the twelve tables were brought by the Decemvirs from Greece. At a later period, the same laws, developed and improved, were disseminated everywhere by the victorious legions of the Republic. They became mingled with local usages, which were respected by the conquerors. The migratory Germanic tribes carried with them their customs, which acquired the force of laws—and hence many of the different customs and *fueros* which prevailed in France and in Spain. The Norman conquest introduced into England many of the customs of that province, and the law itself was administered by Normans in Norman French. Hence we may trace to the customs of Normandy the widow's third, and other peculiarities of the English law. The Military Feudality of the middle ages upset the whole system of land titles and tenures, and established that relation of lord and vassal, a fruitful source of innumerable laws and customs. In Rome, not only the edicts of the Praetor often modified the existing laws, but the wildest decrees of the plebeian order were respected, even under the reign of the Caesars. The Saracen conquest of Spain left indelible impressions on the laws and institutions of the peninsula, and the *Alcalde* of the present day

derives his name from and exercises similar functions to those of the *Cadis of Bagdad.* Even among ourselves, local usages, and the usages of trade are referred to in order to aid in the construction of local contracts. Law is not, then, always the solemn expression of Legislative will. The whole doctrine of Bills of Exchange originated in, and is based upon, the customs of merchants, and the Maritime Law upon the practice of States and Towns engaged in navigation and trade. The customs of Paris became the law of Louisiana by the charter of Crozat, and were swept away in their turn by the ordinance of O'Reilly. Indeed, the internal history of the law—that is to say, a history of its different elements, tracing them from their origin through the successive and often insensible modifications to their amalgamation as they are now found, combined and harmonizing together—such an analysis, I say, constituting the chemistry of legal science, would require almost endless research and labor. The same process of fusion and diffusion is still going on under the auspices of the great principle of the comity of nations. The able and learned works upon most of the branches of Jurisprudence by Story and Kent, tend to demonstrate to what extent the Roman is blended with the common law, and to what extent both have been improved by the mutual infusion of principles. Whenever the municipal law has not expressly provided for a particular case, a principle in itself reasonable is sometimes adopted from a foreign system by the tribunals, and thus becomes at last an element of our own Jurisprudence. The whole law of Evidence, with the exception of a few elementary principles, is borrowed from the common law. The practice of the Federal tribunals, professing to be governed by State laws, threatens us with alarming innovations, by introducing among us the discretion of a Master in Chancery, to decide upon important interests, and by their forms of execution menacing the overthrow, in favor of foreign creditors, of our equitable system of distribution of a debtor's effects, and making his property anything but the common pledge of his creditors. How far such innovations can be tolerated it is not for me to say.

I have entered into these details principally with a view of enabling you to form a more just estimate of the intricacy of the subject, and of the great labor and research required by the Court in the administration of justice under laws so unsettled, and of such various origin and discordant materials,

and especially to fix the just value of the services of Judge Martin, who during that entire period, and even as late as 1846, continued to labor with unmitigated zeal and industry, combining all the learning required for such a task with a constant devotion to public duties.

He almost always enjoyed a vigorous health, maintained by great temperance and daily exercise. His temperance was indeed remarkable. Though a native of the country of the vine, he never had tasted wine, as he has often assured me, until approaching the age of sixty, and then in great moderation, and never in his whole life had he tasted ardent spirits of any kind. Being a bachelor, he was undisturbed by domestic cares and duties. All the powers of his mind were devoted to the law, rather as a profound thinker than a great reader. He investigated particular subjects deeply, rather than attempting to keep up by regular reading with the legal erudition of the day. He rarely indulged even in a momentary flirtation with the Muses, and I have never heard him speak of any other poets than Virgil, Horace, and Boileau. With works of imagination his acquaintance was extremely limited, and he never enjoyed the romantic literature of the age, though contemporary with Sir Walter Scott, and the great writers of the French school. The law had no such rival in his affections, and all the rays of a vigorous intellect were converged to one focus. He enjoyed at the same time a constant serenity of mind, and possessed an equanimity at all times, and under all circumstances, most remarkable. He was never querulous nor petulant, and even in the ardor of debate in consultation with his colleagues he possessed the most perfect self-control, and never became angry or impatient. It was perhaps on such occasions that he displayed to the greatest advantage all the vigor and acuteness of his mind, and the resources of his learning. Those who have contended with him best know how expert and powerful a wrestler he was—and yet he often detected the fallacy of his own reasoning, and convinced himself that he had been originally wrong. His great peculiarity was in pushing first principles to their most remote, ultimate consequences, let them end where they might. His method of reasoning was sometimes eminently Socratic, and it was necessary in discussions with him to be extremely cautious how you admitted his premises. If you answered unguardedly a series of questions affirming the re-

mote principle from which he started, you ran the risk of finding yourself involved at last in a mesh of sophisms, and convicted on your own confessions. It often happened that he would return the next day after a protracted discussion and say, "Well, I have consulted my pillow on that question, and after all I believe I was wrong."

Judge Martin was an agreeable companion. His conversation was always amusing and entertaining. He was uniformly calm and quiescent, and never querulous or garrulous, notwithstanding his very advanced age and its increasing infirmities. He was sometimes facetious, and many of you probably remember the case in which he spoke of the violent proceedings of a mob, to tear down a house in order to get rid of the obnoxious tenants, as the service of the *frontier writ of ejectment.* Never disposed to be censorious, he was, when the occasion required it, inexorable in his denunciation of the fraudulent conduct of parties litigant before the Court, exposing their turpitude to public censure with an unsparing severity. This he could do with great propriety and consistency, for he felt the full force of, and himself acted up to the great precepts of the law—"honesté vivere"—"alterum non loedere"—"et suum cuique tribuere."

Judge Martin's general health continued in a great measure unimpaired to a good old age. He rarely lost a single day in his attendance at Court, or at the stated times for consultation. But his eye-sight began to fail many years ago, and as early as 1836 he became so blind as to be no longer capable of writing his opinions, and from that period he dictated to an amanuensis. But he bore this great privation with remarkable fortitude, and it did not seem to disturb the habitual serenity and cheerfulness of his disposition. He continued, however, to hope for the restoration of his sight; consulted numerous oculists, but never found but one disposed to attempt an operation, and he promised too much, and was distrusted. To the last, even at the age of 84, he never exhibited any of the usual marks of extreme old age—although his memory was somewhat impaired, his reasoning powers were still vigorous; he had none of the garrulity of age, and his existence closed without the usual evening twilight of intellect.

In the summer of 1844, he visited his native France, for the first time since he had left there in his youth. He remained

in Paris some weeks, and his eyes were examined by the ablest oculists of that capital. But they declined attempting an operation, it having been well ascertained that the case was hopeless —a confirmed *gutta serena*. He returned to Louisiana in the autumn of the same year, and resumed his duties on the Bench.

The long and painful struggle of Judge Martin in his youth against poverty exerted a great influence upon his habits and turn of mind through life. The accumulation of wealth by constant economy became habitual with him, at the same time that he was scrupulously honest and fair in all his dealings. In deed, he had always a strong and abiding sense of what is just, which showed itself in his conduct, both as a man and as a judge.

His reports form the most useful of his works. They constitute the first chart of a coast at that time in a great measure unexplored—and although not complete, and leaving much for his successors to supply, yet they served at least to show the intricacy of the navigation, and to point out many of its difficulties and dangers. Such a publication was a novelty at the time in this State, and the want of it could not have been supplied by the Reports of any other State or country. While it tended to produce uniformity of decision at home, it made our peculiar jurisprudence better known abroad. It exhibited some of its peculiarities and excellencies in such strong light that it has contributed in some particulars, and especially that part of our system, which guards so effectually the rights of married women, to recommend in several of the States the adoption of similar provisions.

There are some strong points of resemblance between Judge Martin and Peter Stephen Duponceau, who declined the appointment of Judge in the Territory of Orleans, about the time that office was accepted by Judge Martin. Both were Frenchmen by birth, and arrived at an early period in the United States, and identified themselves with the country; both wrote in the English language; both were jurists and civilians of eminence; each gave to the profession a translation of a foreign work of great merit—Martin, the Treatise of Pothier on Obligations—Duponceau, that of Binkershoek on Public Law, and both contributed to create a taste for such studies. Martin was more exclusively a lawyer, although, as we have

seen, he published two works of History. Duponceau was the more elegant and accomplished scholar, and particularly distinguished as a Philologist, and so thoroughly versed in the aboriginal languages of this continent as to have received the reward of the French Institute for the best essay on that subject. He published also an original Treatise on the Constitution of the United States, and another on the Jurisdiction of the Federal Courts. The style of Martin was more pointed and brief—that of Duponceau more polished and copious. Both wrote with great purity in a language which was not their vernacular tongue. While Martin was satisfied with usefulness on the Bench, Duponceau prosecuted a more extensive line of studies and pursuits, and was assiduous and useful, among other things, in his efforts to introduce the culture of silk in the United States. Both lived to a very advanced age, were respected and honored by the public for the purity of their lives, and their profound learning and usefulness, and both in turn reflected honor on the land of their adoption.

A great majority of the most eminent lawyers in the United States and in England have passed through the same severe ordeal of early poverty. It is a stern but salutary discipline. Few professional men, who were born to affluence and nurtured in luxury and ease, have made a distinguished figure in after life. It is adversity which teaches us the importance of relying upon ourselves, and draws out all the energies and resources of the mind. Nothing discourages and nothing daunts such men. They feel that time and perseverance will not fail to reward their solitary studies, and gratify their long deferred hopes of distinction. The lives of such men are without any striking events or incidents on which the attention of the biographer is fixed; they pursue the even tenor of their way, contented with the cultivation of the intellectual powers, and the distinction which their profession gives them in society.

The example of such men is cheering in the highest degree to those who are just entering on a professional career. Let them learn never to despair. If true to themselves, and devoted to their studies, under whatever disadvantages of early fortune they may labor—however hard the struggle with want and competition, it will come at last—the noblest and purest of all triumphs, that of an innate energy of soul over adversity and

want and neglect. If their studies are commensurate with the almost boundless field of the science to which they are devoted, embracing, in the language of Justinian, "divinarum atque humanarum rerum notitia—justi atque injusti scientia," they are prepared to act a distinguished part in any of the departments of public affairs to which they may be called in after life. The profession in the United States has always been the high road to honorable distinction. Many of those who by their intelligence, influence and eloquence prepared the public mind for revolution to resist the encroachments of power, were lawyers who had studied deeply the true theory of popular government. They afterwards were lawyers who prepared and sustained the Declaration of Independence—and especially those who devised the admirable Constitution under which we live and prosper, and who were among its first expounders. The profession here deals not only with private rights, and the controversies between man and man—their studies embrace the great relations of the governed with the governor—they regard public offices as public trusts—and discuss freely the limitations of delegated power, and the duties and attributes of restricted sovereignty. The lawyer who fearlessly and boldly advocates such principles is already half a statesman. The profession in this country have always been, and from the nature of their studies must always be, the advocates and supporters of free government and popular institutions.

François Xavier Martin, let it not be forgotten, was a foreigner by birth, and a naturalized citizen of the United States. He was received as a brother—became early identified with the country, and had no connection for more than sixty years with the political vicissitudes of his native land. He was thoroughly American in his feelings and opinions. He was an American lawyer and an American magistrate. If strict integrity of life—if a love of truth, for the sake of truth and justice—if a fearless independence and impartiality in the discharge of public duties—if a profound knowledge of law and the most exemplary devotion to duty during a long life constitute the elements of greatness, surely he may well be pronounced great.

What a commentary this upon the liberal institutions of this widespread Republic, and the generous spirit of a vast

majority of its citizens! It opens wide its arms to receive and cherish all those who, driven by political calamities, or impelled by a hope of ameliorating their condition in life, are wafted to our shores. They bring with them the arts and industry and learning of their country. It matters not what may have been the land of their nativity—it matters not what may have been their condition in early life—it matters not what may have been the religion of their fathers or their own, or in what language their first thoughts may have been uttered—they are welcomed as men and as brothers—they become gradually assimilated to the common mass of citizens, and their origin is perhaps forgotten in a second generation. We become one in feeling—one in opinion, and participators in and contributors to the common renown of our great Republic. The Bar of New Orleans, at whose request I appear before you, is at this moment composed of men who were born in most of the polished nations of the globe—France, Germany, Belgium, England, the United States, Ireland, and Sweden. They all contribute to the stock of learning for which the Bar is so eminently distinguished. In proportion as our country spreads itself, wider and wider, by the peaceful conquests of civilization, those who take refuge here from other countries, forgetting their native land for that of their choice, enjoy its blessings and advantages in common with native citizens; and if a frenzy for foreign conquest by arms should seize us, it may be pleaded at least as an excuse for us that we are influenced by no selfish and narrow views; but those conquests will extend still further the influence of free institutions, and furnish a refuge and a home for the oppressed of other lands. It is thus our government is destined to illustrate the noble though of a living poet:

"Man is one;
And he hath one great heart. It is thus we feel,
With a gigantic throb athwart the sea,
Each other's rights and wrongs; thus are we men."—Festus.

THE JOHN PERKINS FAMILY OF NORTHEAST LOUISIANA*

By ROBERT DABNEY CALHOUN,
Vidalia, Louisiana

The cemetery at Natchez, Mississippi, extends along the Mississippi River bluffs, just above the old town. It is probably one of the most beautiful and best kept cemeteries in the South. Here one may view the majestic sweep of the river for many miles, and the pleasing panorama of the Louisiana lowlands in the distance. This old cemetery dates back to the Spanish regime. For more than a century it has been the last earthly resting place for many of Northeast Louisiana's distinguished sons. In taking a morning's walk along the gravelled and grass-bordered paths of this "city of peace," ancient monuments here and there recall to our memory men who, in their day, played leading rôles in the opening up and development of this new country; many who were once prominent in its political and social life.

In the older part of the cemetery one pauses at a plot in which there are several heavy iron slabs, and other slabs and monuments of marble. The metal slabs mark the more ancient graves. Although the first record commemorates an interment in 1814, and the last a burial in 1885, all of the tombs are in good condition and all of the inscriptions are quite legible.

To the members of the Louisiana Historical Society who are now celebrating its one hundred years of continuous service in the collection and perpetuation of our State's history—its Centennial—that little plot is of interest: not only because it enbosoms the remains of two outstanding and honored sons of Louisiana, but more especially for the reason that one of them was an early officer and active member of the Society, and made to it generous contributions of his time and exceptional talents.

*This paper was published in *The Tensas Gazette*, St. Joseph, La., in 1933. Since that publication, it has been revised by the author and much new material incorporated which was not then available to him.

On a heavy marble slab we read:

In Memory of John Perkins, Sen'r.
Born in Somerset County, on the Eastern Shore of Maryland,
May 17, 1781.
Emigrated to Natchez in the Winter of 1802.
Died at the age of 85 years and 6 months.

This monument also covers the remains of his wife,
Mrs. Zilpha Perkins,
Who died in the year 1843,
To whose memory a monument was erected
On his Somerset Estate in Louisiana.

Except to their posterity, the lives of most men would be adequately encompassed and commemorated by such an inscription. Not so with John Perkins, Senior. We here learn that he emigrated from the ancestral home in Maryland, when scarcely of age, and that he became a resident of Natchez almost on the eve of the cession of Louisiana to the United States. At that time our section of Louisiana was practically an uninhabited wilderness.[1] Following the transfer, young Perkins soon became a leading citizen of the new country. The conveyance records of Concordia Parish show that John Perkins acquired tracts of land in 1806 and 1807 in the vicinity of Vidalia—then the Post of Concord—and out near Lake St. John. In these deeds his residence is given as Natchez; but conveyances to him subsequent to 1809 recite that Perkins was a resident of Concordia Parish.[2]

That John Perkins was a man of recognized ability and standing in this section, even at that early day, won for him, in 1813, Governor Claiborne's appointment to the important office of Parish Judge of Concordia Parish—a post which he capably filled until he was succeeded by Edward Broughton in 1818.[3] Concordia Parish had a much larger area at that time than it had in later years, for it then extended from the mouth of the Red River to "the upper line of John Milliken's plantation,"

[1]Calhoun, R. D., "A History of Concordia Parish," in *Louisiana Historical Quarterly*, XV, 44-67, (January, 1932).
[2]Numerous deeds recorded in Conveyance Books "A-4" and "B" of Concordia Parish Archives, Vidalia, La.
[3]Calhoun, *op. cit.*, in *Louisiana Historical Quarterly*, XV, 224, (April, 1932).

which was in Milliken's Bend; so the Judge's jurisdiction extended over a territory of more than one hundred miles in length. A Parish Judge in those days was the most important public official in any Louisiana community; the duties appertaining to his office covered a wide range of judicial and administrative activities.[4] As a consequence, this young man had much to do with the early development of Concordia Parish and the administration of its public business during the formative period.

However, as the years passed, through his great acumen and business ability, Judge Perkins founded one of the great landed estates of Louisiana. He sired two brilliant sons—one of them to meet a tragic end early in life; the other to play a prominent rôle on the stages of state and national politics. He lived the life of the cultured, patrician, ruling class of the Old South; he lived a life of loyalty, charity, philanthropy, and Christian faith.

Old conveyance records at Vidalia disclose that, in 1815, Judge Perkins began the purchase of contiguous tracts of land in the northern part of what is now Tensas Parish, but at that time in Concordia. These tracts bordered the Mississippi River, and they were known as the Homestead, Via Mede, Back Land, and Wildwood plantations, all lying south of Bayou Vidal, and the Hapaka plantation which lay to the north of the bayou. These plantations all adjoined, and Judge Perkins consolidated them into one vast property of seventeen thousand five hundred acres, to which he gave the name "Somerset Estate," in commemoration of his boyhood home in Maryland. Some of these tracts were acquired as late as 1840. A deed of 1820 recites that the lands purchased "adjoin the Somerset establishment of John Perkins at the *mounts*"—Indian mounds.[5]

This great property had been highly improved and well stocked with slaves long prior to the Civil War; and before that time Judge Perkins had become one of the leading cotton planters and one of the wealthiest men of Northeast Louisiana. When the parish of Madison was carved from northern Concordia in 1838, the Somerset Estate lay entirely within the

[4]Calhoun, R. D., "The Origin and Early Development of County-Parish Government in Louisiana," in *Louisiana Historical Quarterly*, XVIII, 56-160, (January, 1935).

[5]Sundry Conveyance Books in Concordia Parish Archives, with transcriptions in archives of Tensas and Madison parishes.

bounds of Madison; and when the parish of Tensas was created in 1843, the line between the two parishes of Madison and Tensas ran through Somerset and intersected the river "just below the residence of John Perkins." The boundary between Tensas and Madison was again changed in 1861; and all of Somerset, with the exception of the Hapaka plantation of two thousand acres, was included within the boundaries of Tensas, where it is now.

In a biographical sketch of John Perkins, Junior, published in the *Natchez Tri-Weekly Democrat*[6] of December 23, 1885, it is said that his father "was the first United States Judge ever to sit on the bench in Louisiana." This statement is, of course, erroneous: Judge Dominic Hall was appointed United States District Judge for Louisiana on the organization of the government of Orleans Territory under the act of Congress which became effective on October 1, 1804; and he served in that capacity for many years. The writer of the *Democrat* sketch evidently had in mind Judge Perkins' service as Parish Judge of Concordia; this author has no knowledge of his having filled any other office.

Judge John Perkins, Senior, was married twice. His first wife was Mary Bynum, widow of Benjamin Bynum, a resident of Concordia Parish; she had been Miss Mary Rives. Benjamin Bynum died in 1815; he is buried in the same plot. At the time she married the Judge in 1817, the Widow Bynum had four children: Nancy, Benjamin, Mary and Harriet.[7] Mary Bynum married Thomas P. Eskridge; Harriet became the wife of E. P. Fourniquet; and it is believed that Nancy married Martin W. Ewing. Benjamin Bynum, Jr., died in the 1830's.

The children of Judge John Perkins, Senior, and Mary (Bynum) Perkins were: Rachel S., who died in infancy at the Olympian Springs, Kentucky, and William Perkins and John Perkins, Junior. Mrs. Mary Perkins died on August 12, 1824, at the age of thirty-eight years, and her tomb is in the Natchez cemetery. In her will, which was probated in Concordia Parish, she bequeathed her Bynum property to her Bynum children, and her interest in the community with Per-

[6]Published at the time of death of John Perkins, Jr. Courtesy of Natchez Democrat Publishing Co., Natchez, Miss. They have a complete file of Natchez papers from 1867 to date.

[7]Original records Re: Tutorship of the Minors Bynum, and Succession of Mrs. Mary Perkins, Concordia Parish Probate Archives.

kins to her sons, William Perkins and John Perkins, Junior. She expressed great affection for both sets of her children and her solicitude "for their continued happiness together without any heartburnings and jealousies over property."[8] It appears that Judge Perkins educated his stepdaughters in Baltimore, and that he had a great affection for them.

Judge John Perkins, Senior, had no children by his second wife, Mrs. Zilpha Perkins, who before her marriage was a Miss Calvitt of Claiborne County, Mississippi. At the time he came to Natchez in 1802, it would seem that an older sister accompanied him, as there is also the tomb of Miss Sarah Perkins: "Born in the County of Somerset, Maryland, February 24, 1780. Died April 12, 1814."

William Perkins married Ellen M. (Murdoch), and they had three children: Blanche Z., Eleanora and Anna. William was a lawyer and engaged in the practice of his profession in Madison Parish. He served in the Louisiana Constitutional Convention of 1852, as a member from Madison Parish, vice A. Snyder, resigned.[9] In 1854 William Perkins went to Europe. We do not know what his mission was; his young family was not with him. On his return voyage, the vessel, the *Arctic*, went down and Perkins was lost, September 27, 1854. The judge had a monument erected to his memory on a large Indian Mound on Somerset. Blanche Z. Perkins married James B. Richey; Eleanora Murdoch Perkins married William Bruce Prescott, both becoming British subjects. Their husbands are said to have been from cadet lines of the British nobility. One of them is said to have been an officer in the British army, and to have been killed in a native uprising in India.

On the 7th of April, 1857, Judge John Perkins made what is called in Louisiana law an "onerous" donation to his son, John, Junior, of his entire Somerset Estate of seventeen thousand five hundred acres, with all the appurtenances, including some two hundred and fifty slaves. The property was valued in the act of transfer at over six hundred thousand dollars. This donation was conditioned upon the payment by the son to the father of the sum of fifteen thousand dollars annually during the life of the donor; also upon the payment by the donee to

[8]Original will, Concordia Parish Probate archives.
[9]*Journal of the Constitutional Convention of 1852.* (Copy in Howard Memorial Library, N. O.)

Mrs. Ellen M. Perkins, widow of William, of twenty thousand dollars; and, further, upon the payment, at the death of the Judge, to his three grandchildren—the daughters of William—of eighty thousand dollars each.[10] John Perkins, Junior, went into possession of the property at that time, and resided there and operated it until the outbreak of the Civil War; he never resided on the property thereafter. Before, or about the time of this donation, the old Judge acquired an estate near Columbus, in Lowndes County, Mississippi, which he called "The Oaks," where he lived up to the time of his death in 1866.

Shortly prior to his death, the Judge brought suit in the District Court of Tensas Parish, Louisiana, against his son, John, for the revocation of this donation and the restitution of the property to him. He alleged that John had not complied with the terms and conditions of the donation, in that he had failed for a number of years to pay the stipulated annuity of fifteen thousand dollars; that John had abandoned the property and had not visited it for several years, and was then residing in the City of Mexico. John Perkins, Junior, had become heavily involved in debt during the war; and a number of his creditors attempted to intervene in this suit, but their interventions were not allowed by the District Court. These creditors alleged that the suit for revocation of the donation was a collusive attempt on the part of the Judge and his son to shield the property from the pursuit of the son's creditors. There was judgment in the District Court, in 1866, annulling the donation. The creditors appealed, and the Supreme Court of Louisiana reversed the lower court and remanded the case for a trial on the interventions.[11]

In the meantime, the old Judge died at his home at "The Oaks" on November 30, 1866. His will,[12] dated June 11, 1866, is a lengthy instrument of some ten or twelve large and closely written pages. It is a very human document. It expresses the true character of this grand old man—his deeply religious life; his generosity to his church and its clergy; his thoughtfulness, liberality and affection for his kindred and friends. "I com-

[10]Tensas Parish archives. Its recitals are also given in Louisiana Supreme Court decisions noted hereafter.
[11]John Perkins, Sr., versus John Perkins, Jr. (1868), *20th Louisiana Annual*, 257-259.
[12]Certified copy in the original record Re: Succession of John Perkins, Sr., Tensas Parish archives.

mend my soul to God, my Heavenly Father, in the hope of a happy resurrection and entrance into His Heavenly Kingdom through the merits of His Son."

The testator directs that his remains be buried by the side of his last wife, at Natchez, and he continues: "and I desire that both be covered with one stone, plain and not costly, and that a monument selected by my Executors be erected at Somerset, similar to those that commemorate my last wife and my son William." After directing the payment of his debts, the next bequest is of more than passing interest: "I give and bequeath to my son John Perkins, Jr., the Gold-headed cane which he brought to me from Mount Sinai;" and this was the only bequest to John.

The testator then bequeathed to Mrs. Evelyn Perkins, "my daughter-in-law and to her daughter, Miss Evelyn Bailey, that portion of the Somerset Estate which was known as the Hapaka Plantation." To his daughter-in-law, Mrs. Ellen M. Perkins, and to her children, Blanche Z., Eleanora and Anna, he left his "whole service of Plate, together with the iron safe in which it is usually kept; and also the cylindrical iron case left by me at my late residence at Somerset, containing letters from my deceased son, William, while in Europe, together with the newspaper accounts of his loss at sea, preserved by me especially for my grandchildren as matters of great interest to them." He also directed delivery to his grandchildren of "the family portraits—my own, and that of my deceased wife and those of my two sons—and also a pair of gold sleeve buttons that were originally my great-grandfather's, marked *JP*." From this last item, it seems most probable that the Judge's great-grand-father was also a John Perkins.

The whole estate of "The Oaks" was willed to his "relative," Elizabeth Scott Eskridge. To his "relative," Robert J. Perkins, he bequeathed fifty acres of land in Adams County, Mississippi, "one mile below the City of Natchez, and adjoining my old residence, *The Briars*." Like many other Northeast Louisiana planters of the "Golden Age," Judge Perkins maintained a suburban home at Natchez in addition to the home on the plantation in the Louisiana lowlands. The writer does not know when the ownership of "The Briars" passed from Judge Perkins, but it was subsequently owned by the Howell

family; and it was here that Jefferson Davis was married to Varina Howell. This historic ante-bellum home is now owned by Mrs. W. W. Wall, of New Orleans; and it is one of the places visited on the annual pilgrimages which are now sponsored by the Natchez Garden Club.

Returning to the will, we find that the Judge made gifts of five thousand dollars to each of his "relatives," Elizabeth Scott Eskridge and Mrs. Anna Buck, wife of Captain J. H. Buck; and similar sums to the Misses Mary E., Eliza and Julia Ogden, daughters of Judge A. N. Ogden of New Orleans. To his "relative," Miss Henrietta Furniss, he bequeathed five hundred dollars; and a like sum to Mrs. Byrne, "daughter of my friend the late Dr. Smith of Baltimore, to evidence my regard for the memory of her mother, Mrs. Smith, on account of her kind and affectionate treatment of my stepchildren while in her family and at school in Baltimore." Also to the Misses Henrietta and Ruth Butler five hundred dollars each, "to commemorate the usefulness of their father, the late Rev. Dr. Z. Butler." "To Miss Anna Chamberlain, daughter of the Rev. N. P. Chamberlain, five hundred dollars, to show my feeling of kindness and affection for her; and to my friend, the Rev. N. P. Chamberlain, pastor in my house, the sum of five hundred dollars, and one pair of my gold glasses, together with my entire wardrobe of wearing apparel." "To my late pastor, the Rev. J. W. Kerr, the sum of five hundred dollars and a suit of black cloth; and to my grand-stepson, B. B. Eskridge, one of my gold-headed canes."

The will then directs: "That two thousand dollars be appropriated for the building of a Presbyterian church at some convenient spot on my Somerset Estate, whenever the occupants and neighbors shall manifest a serious disposition to maintain Evangelical services in said house; and as long, and no longer, as they maintain an Evangelical clergyman for conducting worship in said house, one hundred dollars annually shall be paid towards the support of the clergyman; and it is my will that the church standing on the Via Mede Plantation shall be used for all denominations of Christians."

The will then recites in detail the donation of Somerset to John; the failure of John to comply with the conditions of the donation; and the suit which the old Judge had brought for its

revocation; with the further statement that John had received more than his *legitime* in advancements and revenues from the property. The donation of Somerset to him is formally revoked. The entire Somerset Estate, (with the exception of Hapaka), was bequeathed to the testator's three grandchildren, the daughters of William and Ellen Perkins. It is expressly stipulated that all the money dispositions are chargeable against the Somerset Estate only, and are to be paid exclusively from the rents and revenues accruing from that property; and the Executors were directed to hold Somerset intact, and to deliver it to his granddaughters, who are requested to hold the same in indivision.

In a Codicil, the old gentleman directed: "That a sufficient amount be paid as my bequest to the Perkins Professorship in the University of South Carolina to make up the losses sustained by that Professorship by the war and occasioned thereby, as far as may be necessary to supply the means of placing the Professorship on its original footing;" and in another Codicil, he mentions a gift to the "Theological Seminary at Columbia, South Carolina," and declares that it was not intended by him that this donation should be restricted in its use, "but is to accrue to the benefit of the Seminary, whenever the Church in its wisdom sees fit to locate it." Other Codicils increased the size of some of the special money bequests. The testator named N. E. Goodwin, of Columbus, Mississippi, as Executor of his Mississippi estate; and Josiah Stansbrough, of Madison Parish, Louisiana, and Judge A. N. Ogden, of New Orleans, as the Executors of his Louisiana estate.

These Executors made themselves parties to the suit to revoke the donation of Somerset to John Perkins, Jr., and a second judgment, annulling the donation, was rendered by the District Court of Tensas Parish in 1871. This judgment was again appealed from by the intervening creditors of John, Jr., but some compromise was entered into between them and the residuary legatees of Somerset; the appeal was dismissed by consent.[13]

At the time of the execution of this will, little more than a year after Lee's surrender at Appomattox, and when he was

[13]Original records Re: Succession of John Perkins, Sr., and Perkins versus Perkins, Tensas Parish archives.

enfeebled by age and ill health, it is probable that the old Judge had no clear conception of the shrinkage of his fortune and the changed conditions resulting from the war and its aftermath; that he failed to fully appreciate the havoc which Grant's army had wrought on Somerset in its march to Hard Times, for the crossing of the river and the investment of Vicksburg: otherwise, it would seem that he would not have made such lavish testamentary dispositions.

In accordance with the will, the Executors attempted to pay off the debts and special legacies from the accruing revenues of Somerset, but without much success. During all this time, Mrs. Ellen M. Perkins and her three daughters were residing in London and Paris. Through her attorney, Judge Edgar D. Farrar, in 1874 they assumed the payment of the debts, and the property was turned over to them, burdened with the special legacies; the Executors were discharged. Judge Farrar continued in the management of Somerset for several years, and much litigation ensued from the efforts of the legatees to collect their money bequests. A history of this litigation may be found in the opinions of the Louisiana Supreme Court in the cases of Eskridge & others versus Farrar, Agent.[14] The Supreme Court held that, under the peculiar wording of the will, the legatees had recourse against the *revenues* of Somerset only, and had no right of action to provoke a sale of the property for their satisfaction.

Finally, it is said, a suit was brought by these special legatees against Judge Farrar for an accounting of the net revenues accruing during his agency. The suit was prosecuted by his nephew, the brilliant Edgar H. Farrar; and it is said by an attorney who was a spectator at the trial that it was the most heated legal contest ever waged in Tensas Parish.

With reference to the codicil to Judge Perkins' will in which he speaks of having made a donation *inter vivos* to the University of South Carolina at Columbia, this writer recently made inquiry of the authorities of that institution for information in regard to it. Dr. R. M. Kennedy, Librarian of the University, has written to me, as follows:

[14]E. S. Eskridge & Husband versus E. D. Farrar, Agent; and Mary E. Ogden et. al. versus The Heirs of John Perkins (Consolidated). *30th Louisiana Annual* (1878), 718-736; also *34th Louisiana Annual* (1882), 709-728.

> I am very much interested in your letter, just received. The Perkins Professorship about which you ask was established by Judge Perkins of Mississippi in the Columbia Theological Seminary of Columbia, South Carolina, in the year 1859.
>
> I am much surprised to see from the extract of Judge Perkins' will that he refers to "the Perkins Professorship in the University of South Carolina." It would seem that he certainly knew what he was saying, and so it is hard to account for his confusing the University of South Carolina with the Columbia Theological Seminary. But, all I can say is, there is absolutely no record of such professorship, or any other endowed professorship, having been established in this institution. . . . There is no legal or official connection of the two institutions. The Seminary is now in Decatur, Georgia.

This writer cannot explain the confusion in the Judge's mind, if such there was. But there is no lack of information relative to the Perkins Professorship in the Columbia Theological Seminary. This institution, for the theological education of the clergy of the Southern Presbyterian Church, was established at Columbia more than a century ago. The subject of the Perkins Professorship is discussed in numerous historical papers relative to the Church and Seminary. Some of these have been made available to the writer through the courtesy of Rev. William Childs Robinson, D. D., Professor of Church History and Polity in that institution. A history of the establishment of the Perkins Professorship, written by the Rev. James A. Lyon, D. D., of Columbus, Mississippi, was published in the *Southern Presbyterian Review* for April, 1860.[15]

We quote the following from Dr. Robinson's interesting book:[16]

> Darwin's *Origin of the Species*, published in 1859, is said to be cardinal for the whole movement of natural science in relation to Christian Thought. In the same year in which this fundamental work was published, there was made in the Southern Presbyterian Church a genuine effort to estabilsh a *rapprochement* between natural science and Christian truth. This effort was made at the Columbia Theological Seminary.
>
> The minutes of the Board of 1859 narrate a donation of fifty thousand dollars made by Judge Perkins of Mis-

[15] *Southwestern Presbyterian Review*, XII, 181-195.
[16] Robinson, William C., *Columbia Theological Seminary and the Southern Presbyterian Church*, Decatur, Ga., 1931, 168-193.

sissippi to the Seminary. Half of this sum was to be used to endow a professorship in the Seminary, which was ordered styled the "Perkins Professorship of Natural Science in its relation to Revealed Religion."

The instrument of conveyance from Judge Perkins states:

> "First, as we live in an age in which the most insidious attacks are made upon Revealed Religion through the natural sciences; and as it becomes the Church, at all times, to have men capable of defending the Faith once delivered to the Church, it is the object and design of the said John Perkins, and it is hereby ordered and directed . . . that thirty thousand dollars shall be vested as a permanent fund for the endowment of a Professorship."

If we may be permitted to digress a little, the first occupant of the Perkins chair in the Seminary was that great scholar, the Reverend James Woodrow, D. D., a maternal uncle of President Woodrow Wilson. Dr. Woodrow held the chair for several years; but his lectures and writings on *Evolution,* (particularly an address which he delivered on May 7, 1884, entitled *Evolution,*) were held by the "Fundamentalists" to be "contrary to the Southern Presbyterian interpretation of the Scriptures." The controversy raged for some time, and several of the Synods and the General Assembly of the Church held that Dr. Woodrow's views were not in accord with "doctrines fundamental to the faith." Dr. Woodrow's connection with the Seminary was severed. Thereafter, he became President of the University of South Carolina. A very interesting and exhaustive account of this church schism, which had its beginning with Dr. Woodrow's "Perkins Professorship" lectures, may be found in Dr. Robinson's book.[17]

We now turn our attention to the eventful career of John Perkins, Junior—probably of more interest to the members of the Louisiana Historical Society. From the inscription on his tomb, near that of his father, we glean: That John Perkins, Junior, was born "near Natchez" on July 1, 1819; that he married Evelyn May of Virginia; that he died in Baltimore on November 29, 1885; and "In the Communion of the Catholic Church." Evelyn May, a daughter of Judge May of Petersburg —and formerly the Widow Bailey—was his second wife. They had no children; she survived her husband. Mrs. Evelyn Per-

[17] Also, Woodrow, W. W., *Dr. James Woodrow*, 1909, pp. 366-370.

kins died at Baltimore on September 11, 1897, where she was living with her daughter, Evelyn, who was the widow of Dr. Louis McLane Tiffany of Baltimore.

This writer hesitates mentioning the marriage of young Perkins to Mary Potts, of New York, in 1850. It was tragic, but it is the duty of the honest historian to present facts, even though unpleasant. The young couple visited Paris on their wedding tour of Europe; while there Mrs. Perkins deserted her husband and, after a time, returned to her father's home in New York.[18] Tensas Parish tradition has it that she became infatuated with a French dancing master.

John Perkins, Junior, graduated from Yale College in 1840; one of his classmates was William M. Evarts. Thereafter, he took his law degree at Harvard and entered the practice of his profession at New Orleans.[19] During his several years of residence there, Perkins became greatly interested in Louisiana History. In June, 1846, a meeting was held at the State House for the purpose of reviving the Louisiana Historical Society; it had languished since its original organization in 1836. At this meeting there were present: John Perkins, Jr., J. D. B. DeBow, E. J. Forstall, Charles Gayarré, General Joseph Walker, and Alfred Hennen.[20] The efforts of these six outstanding men found fruition in the adoption of the Society's constitution on July 1, 1846. Judge Francois Xavier Martin was elected President.[21] In the summer of 1847 the Society was incorporated. Judge Martin having died, Judge Henry A. Bullard was chosen President, with John Perkins, Jr., and J. D. B. DeBow as its Secretaries. Perkins and DeBow "were appointed to visit the various societies at the North and open interchanges of documents and correspondence. This duty they regularly performed."[22]

In the summer of 1848, John Perkins "was delegated by the Society to make researches (historical) relating to Louisiana."[23] It appears that he sojourned in Paris for several months during 1848 and 1849. At the time, he was in ill health, and

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[18]John Perkins, Jr. versus Mary E. Potts, His Wife, *8th Louisiana Annual* (1853), p. 14.
[19]Biographical sketch, *Natchez Tri-Weekly Democrat, op. cit.;* Fortier, Alcée, *Louisiana,* (Cyclopedic), II, 310.
[20]French, B. F., *Historical Collections of Louisiana,* 1st series, Part II (1850), pp. 1-2; also, Fortier, *op. cit.,* I, 508, article "Historical Society."
[21]French, *op. cit.,* pp. 3, 4.
[22]*Ibid.,* p. 7.
[23]*Ibid.,* p. 9.

was seldom able to leave his room for the first three months after his arrival there, "and was never free from pain." Notwithstanding his physical condition, he contacted many French officials, and the vast archives of the Ministry of Marines and of the French War and Foreign Departments were thrown open to him. In a lengthy preliminary report to the Society, dated at Paris, March 24, 1849, he discussed the condition of the archives and what had already been done towards classification and calendaring, either by the French Government or by others; and he noted that there seemed to be "many documents of a most interesting kind that have escaped the attention of Mr. Forstall, and even of Mr. Gayarré." It seems worth while to make the following excerpt from this report:[24]

> . . . Under the circumstances, I concluded it would most subserve the purposes of our Historical Society to begin with the transcript of the papers where the publication on the part of the French government ceases. Accordingly, I hope to send you during the ensuing season a digest, chronologically arranged, of all the papers in the different archives of the French Government referring to Louisiana, from the date of Iberville's landing in 1697, down to its final acquisition in 1803 by the United States. The labor of this composition has been great—much more than I could have achieved, even with health, by myself. I have been fortunate in securing the services of Mr. Margry, to whose minute familiarity with the archives of the government and the early history of our State must be ascribed any merit that the digest may be found to possess.
>
> When I tell you that it fills a large quarto of 500 closely written pages, you will see how impossible the idea I first conceived of sending home certified copies of the documents themselves. Louisiana ought to have them. She owes it to herself to collect this proper patrimony of her sons. . . ."

Having abandoned his law practice in New Orleans, John Perkins, Junior, returned to Madison Parish in 1851, with an appointment to the office of District Judge. The following year he was elected to the 33rd United States Congress from this Northeast Louisiana district, as a Democrat.[25] On his retirement at the end of the term, he seems to have been reappointed to the District Bench; and, as we have seen, he took over the management of Somerset in 1857.

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[24] *Ibid.*, pp. 9, 10, 11.

[25] Biographical sketch, in *Natchez Tri-Weekly Democrat, op. cit.;* Fortier, *op. cit.*, II, 310; also, volumes of the *Louisiana Reports* for the 1850's.

When the breach between the North and the South over slavery reached the point of open advocacy of secession, Perkins actively espoused the secession movement. In the election of delegates to the memorable Louisiana Secession Convention of 1861, John Perkins, Junior, of Madison Parish, and Lemuel P. Conner, of Concordia Parish, were the successful candidates for the Senatorial District composed of the parishes of Madison, Tensas and Concordia.

On the assembling of the Convention at Baton Rouge, on Wednesday, January 23, 1861, on motion of Lawrence of Plaquemines, John Perkins, Junior, was made temporary Chairman. The candidates for the Presidency of the Convention were Alexander Mouton and Isaiah Garrett: the ballot stood, Mouton 81, Garrett 41, and Perkins 1, making a total of 123 votes.

After Governor Mouton took the chair and delivered his address of acceptance, and other organization preliminaries were completed, upon motion of Samuel W. Dorsey, Parish delegate from Tensas, a Committee of Fifteen was appointed "to prepare and report an ordinance providing for the withdrawal of the State of Louisiana from the Union." Perkins was made Chairman of this Committee.

On Thursday, January 24th, as Chairman of the Committee, Perkins reported an Ordinance entitled: *An Ordinance to dissolve the Union between the State of Louisiana and other States united with her in the compact entitled "The Constitution of the United States."* Upon his motion, the Ordinance was ordered printed and made the special order of the day for Friday, the 25th. Rozier, of New Orleans, and Fuqua, of Baton Rouge, offered substitute ordinances which were later voted down. At the session of Saturday, January 26, 1861, on motion of Perkins, the Ordinance which had been presented by him was called up and was adopted by a vote of 113 Yeas to 17 Nays—and Louisiana had seceded![26]

The Convention recessed, to meet at New Orleans on January 30th, whereupon six delegates were elected from the State to the Convention to be held by the seceding States at Montgomery, Alabama, on February 4th. Perkins was one of the

[26]Greer, James Kimmins, "Louisiana Politics, 1845-1861," in *Louisiana Historical Quarterly*, XIII, 617-650, (October, 1930); Kendall, Lane Carter, "Interregnum in Louisiana in 1861," in *Louisiana Historical Quarterly*, XVI, 386-408, (July, 1933); Calhoun, R. D., "History of Concordia Parish," in *Louisiana Historical Quarterly*, XVI, 99-100, (January, 1933).

delegates at large. Upon the formation of the Confederate States Government, Perkins was returned by the Northeast Louisiana District as its member in the Congress of the Confederate States; he served in that capacity to the end. This writer has not at his command the necessary reference works to enable him to discuss the career of Perkins in either the United States Congress or the Congress of the Confederate States; in this respect this paper is inadequate.

An interesting story was told the writer by Lemuel P. Conner, of Natchez, who had it from his father, the colleague of Perkins in the Secession Convention. They were warm friends and, although Mr. Conner was not a member of the Committee of Fifteen, he assisted in the drafting of the Ordinance, which was completed only after a session lasting through the entire night. Perkins retained the original of the completed manuscript. Years later, during his last illness in Baltimore, he began a letter to Mr. Conner, in which he stated that he realized he was approaching the end, and that he felt that his friend should have this historic paper. The old gentleman was unable to finish the letter, and the conclusion was written by Mrs. Perkins; she forwarded it to Mr. Conner, with the manuscript, after her husband had passed on.

During the war John Perkins, Jr., spent most of his time in Montgomery, first, and then in Richmond. But he was at Somerset on at least one occasion; for,

> When his plantation was about to be taken possession of by Federal troops, Perkins, with his own hand, fired his magnificent dwelling, and also two thousand bales of cotton, rather than see them used by the Federal troops.[27]

As we have seen, Perkins did not return to Somerset at the conclusion of the war, but went to Mexico. Due to the prominent part he had taken in the secession of Louisiana and his high official connection with the Confederate States Government, like Governor Allen and Governor Moore and many others similarly situated, he believed his personal safety would be more assured on foreign soil. In the original record in the old donation suit there is to be found the testimony of Allen T. Bowie of Tensas Parish. Bowie testified that he was in a Confederate military camp near Gainesville, Georgia, a few weeks

[27] Quoted from biographical sketch, in *Natchez Tri-Weekly Democrat;* see also, Dorsey, Sarah A., *Recollections of Henry Watkins Allen*, New York and New Orleans, 1866, p. 410.

after Lee's surrender; that Judge Perkins sought him out at the camp; that they slept together; that Perkins discussed his affairs and stated that he was going to Mexico and never expected to return to the United States.

In an absorbingly interesting little book, *From Texas to Mexico and the Court of Maximilian in 1865*, by Judge Alexander W. Terrell,[28] we get an occasional glimpse of our Louisiana emigrés. He relates an experience of "The Honorable Mr. Perkins of Mississippi," which undoubtedly has reference to John Perkins of Louisiana. It is worth repeating:

> Traveling on the highway was often hazardous in Western Texas, as it was in Mexico. The Honorable Mr. Perkins of Mississippi, a wealthy cotton planter, started from San Antonio to enter Mexico at Eagle Pass with an escort hired by him, consisting of three ex-confederate soldiers. He had several thousand dollars in gold on his person, a fact that became known to some desperate men who wore the Confederate gray. They lay in wait for the party west of the Nueces River. One afternoon Perkins and his escort were joined by four horsemen, who came into the road from the chaparral, armed with cavalry guns. As was natural, each party paired off with a new companion, and, as they were thus riding, three guns were discharged simultaneously by the strangers, and the three men of the escort fell dead from their horses. Perkins remained unhurt, but was held under the muzzle of a pistol by his new companion, who caused him to dismount and assist in dragging the bodies of the dead men away from the road. His gold watch, when the plunder was divided, fell to the lot of the man who rode with him, who returned it to him, saying, "Sir, when a boy I lived on your plantation in Mississippi, and you were always kind to mother and her children; your life is safe, take your watch, mount your horse, and ride. If you look behind, you are a dead man."

From the paucity of material available to this writer, he does not know whether Perkins entered the service of the ill-fated, scholarly dreamer, Emperor Maximilian, although it has been so asserted.[29] From what little information we have, we gather that he attempted to establish a coffee plantation at Carlotta, near Cordova. Mrs. Sarah A. Dorsey, writing in

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[28]Published by the Book Club of Texas, Dallas, 1933. Judge Terrell, a Brigadier General, C. S. A., Texas law-maker, "Father of the University of Texas," and U. S. Minister to Turkey during Cleveland's administration, gives a vivid account of the experiences of himself and others who went to Mexico at the close of the Civil War. (In collections of Louisiana Library Commission, Baton Rouge).

[29]Biographical sketch, in *Natchez Tri-Weekly Democrat*.

1866, refers to him as "a colonist now residing at Carlotta, in Mexico."[30]

Governor Henry Watkins Allen, writing from the City of Mexico on February 10, 1866, says:[31]

> . . . Our friends in exile here are all making a living. Some farming, some employed on the railroad, some in counting houses, stores, &c. All, I am glad to say, are conducting themselves very properly, and are highly esteemed by the Mexicans. The Colony at Cordova bids fair to do well. Judge ———— is the agent of the Government there, and is well satisfied with his prospects for a fortune. . . .

From another letter of Governor Allen to a friend, written from the City of Mexico, April 2, 1866, we quote:[32]

> . . . I took a trip to Vera Cruz and Cordova a week or two since. Judge P. is well, and pushing finely ahead with his coffee-farm: he blacks his own shoes, and feeds and curries his own horse. He expects his wife and daughter in the fall. . . .

According to a letter of Governor Allen of a prior date, August 10, 1865, Judge Perkins arrived at the City of Mexico on that day, accompanied by Generals Price and Polk, of Missouri. The Governor says: "They are well. Thank God! we are all, at least, beyond the power of persecution, prison and chains. Judge Perkins looks in fine health. . . ."[33]

The beloved Henry Watkins Allen kept his "rendezvous with death" at the City of Mexico on Sunday morning, April 22, 1866. One of his faithful friends was with him at the last, Major Edwards, later delivered to Judge Perkins, at Cordova, "The stars of his rank, a silver goblet, and one or two other little remembrances." Judge Perkins had requested that these remembrances of the Governor be placed in his keeping for delivery to the Governor's friend, Mrs. Dorsey.[34]

When the Emperor Maximilian paid the penalty for his wife's ambition—death by a Mexican firing-squad at the aqueduct of Querétaro—Mexico was no longer a safe place of refuge

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[30]Dorsey, Sarah A., *Recollections of Henry Watkins Allen*, p. 162.
[31]*Ibid.*, pp. 357-358.
[32]*Ibid.*, pp. 353-354.
[33]*Ibid.*, pp. 331-332.
[34]*Ibid.*, pp. 363-364. The value of Mrs. Dorsey's book was seriously lessened by her frequent deletion of names and her references to many persons as "Mr. ————," "Colonel S.," etc. The "silver goblet," mentioned in the last quotation, was one that Mrs. Dorsey had given to Allen while he was visiting at her temporary residence in Crockett, Texas, as he was enroute to Mexico. (*Ibid.*, p. 322).

for our Southern emigrés. John Perkins, Jr., went to Europe and remained there until 1878. In that year, he returned to the United States, and to his wife's Hapaka Plantation in Madison Parish, where he spent his last years, annually summering in Virginia.[35]

"Mr. Perkins was an extremely cultivated man. His literary attainments were of the highest order. His library was superb. His home was a gem for taste and richness. He was an easy, fluent conversationalist."[36]

Somerset and Hapaka have long since passed out of the ownership of the Perkins family, and time has obliterated, to a large extent, the importance of the name in Louisiana History. In presenting this brief biography, may we say that John Perkins, both father and son, exemplified in a high degree the traditions, culture and manhood of the Old South.

[35]Biographical sketch, in *Natchez Tri-Weekly Democrat.*
[36]Quoted from *Ibid.*

LOUISIANA AND THE ANNEXATION OF TEXAS

By JAMES E. WINSTON

INTRODUCTION

During the years 1835-1837 when the question of the recognition of the independence of Texas by the Jackson administration was a burning issue, the expediency and desirability of annexation had been discussed at length by the New Orleans journals and by some of those in the smaller towns of the state.[1] During the ensuing years the newspapers of New Orleans furnished an exception to the neglect of Texan affairs by leading journals of the United States.[2] This may be explained by reason of the intimate and varied commercial relations that obtained between New Orleans and the Texan Republic.[3] The files of the old *Bee* contain one or more Texas items every month for the year 1842. Practically the same thing may be said of the *Courier de la Louisiane*. Yet in 1841 we find the editor of this journal commenting upon the lack of interest of his fellow-citizens in Mexico and Texas; he believed that the citizens of his city would not have lost much if intercourse with those two countries had been totally annihilated.[4]

Every now and then one come across editorials dealing with the matter of annexation. Thus in 1838 the editor of the *Commercial Bulletin* dealt with the question in a series of vigorous articles. After referring to the great importance of the matter, and of the need of examining it from every angle with the strictest impartiality, he dismisses any claims of Mexico upon Texas. And since we had the best and freest government in the world, our government should comply with the wishes of a sister republic and admit its citizens to the enjoyment of our political institutions. One angle of the question that was to call forth numerous and acrid editorials in southern journals in 1843-1844

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[1] See an article by the writer, "New Orleans Newspapers and the Texas Question, 1835-1837", in the *Southwestern Historical Quarterly*, XXXVI, 109-129.

[2] Cf. Justin H. Smith, *The Annexation of Texas*, 71-73.

[3] Vol. III of the *Austin Papers*, edited by Professor Eugene C. Barker, is replete with illustrations of this statement; cf. also the *Southwestern Historical Quarterly*, XXXIV, 91.106.

[4] Issue of Mar. 11, 1841.

was the reference to the friendly disposition that was entertained by the British Government toward Texas. Another phase of the question that was destined to evoke such heated controversy in the Tyler administration was what was to be termed the sectional motive as explaining the interest of the South in the acquisition of a vast slave-holding area. It was pointed out that annexation was indispensable to the southern states; that the very permanence of the institution of slavery was dependent upon it. Indeed the insolence and intermeddling of the Abolitionists might force the South to a dissolution of the Union.[5] The only other instances that have been noted with reference to annexation during the years of neglect of Texas occur in the *Courier de la Louisiane* for 1841 and 1842. This journal regretted the failure of annexation; for one thing it would be a feather in Tyler's cap, and of more importance was anticipating the designs of European powers with regard to Texas. Its consummation would increase the prosperity and security of New Orleans, and strengthen the political influence of the southern states. It was the same journal that broached editorially the plan "to erect a Southern Confederacy of States between the Roanoke and the Rio del Norte."[6] But these allusions to disunion are in striking contract to the attitude of the New Orleans journals in 1835-1837, as well as in 1843-1844, when the annexation movement had been injected into politics. So far from expressing any sympathy with any such idea, the disunionist movement that was so pronounced in South Carolina at the later period was severely condemned by the New Orleans editors.

Tyler Injects Annexation into Politics

On October 16, 1843, Upshur made known to Van Zandt the desire of the administration for the acquisition of Texas. President Tyler's message upon the subject in December of that year was characterized by the *Picayune* as being upon the whole written in a more sober and moderate tone than had been anticipated by the political press.[7] In February of the ensuing year the *Bee* referred to a report brought by the "Neptune" that the Senate had actually ratified a treaty of annexation; incidentally quite a stir had been made among New Orleans bond-holders and

[5] Issues of Jan. 26, Apr. 19, May 1, 28, 1838.
[6] Issues of Nov. 4, 1841; Jan. 22, 26, 1842.
[7] Issue of Dec. 14, 1843.

dealers in Texas scrip. Inasmuch as the Texas issue had not yet assumed a partisan aspect, that journal declared, "We are clearly in favor of annexation".[8] A few days later the *Picayune* informed its readers that advices from Washington gave the impression that any treaty of Tyler's would be rejected by an absolute majority of seven. Some three weeks later the same journal quoted the Washington correspondent of the *New York Courier and Enquirer* to the effect that rumors of the New Orleans press that an annexation treaty had been accepted by the Senate were devoid of foundation. The draft of a treaty had been agreed upon and despatched to Texas for acceptance. Somewhat more than a week later the city was said to be full of rumors as to certain compromises to propitiate the opponents of annexation.[9] On April 18 the *Picayune* announced that no treaty had been sent to the Senate as yet; the day following reference was made to the vague reports and rumors afloat touching the matter, but the editor was confident a treaty would be laid before the Senate before long. To him an augury of approaching annexation was the fact that Texas money had advanced upon the local exchange. "We cannot see how the measure *per se* can excite the opposition of any men or any parties in this Union, more particularly in the southern section. Let parties hold their horses till the terms of the treaty are known."[10]

The publication of Clay's famous Raleigh letter of April 17 (1844) created in New Orleans as elsewhere wide-spread comment. The *Bee* felt it would disappoint some of his friends, that it would probably be seized upon by some of his enemies to prejudice his popularity at the South. The editor was of the opinion that if annexation was not insisted upon as a sectional movement, the natural course of events "would bring Texas within the Confederacy".[11] The *Picayune* declared it had rarely known the city to be thrown into such a state of excitement as was evoked by Clay's letter; it was the sole engrossing theme of conversation in all circles. For this reason the editor had printed the letter *in extenso*, so keen was the interest among men of all parties. Van Buren's letter, dated April 20, appeared in the New Orleans press the day after Clay's but was deemed by the editor of the

[8] Issue of Feb. 15, 1844.
[9] Issues of Feb. 20, Mar. 17, 1844.
[10] Issues of Apr. 18, 19, 20, 1844. In its issue of May 1 the *Bee* announced the treaty had been sent to the Senate.
[11] Issue of May 6, 1844.

Picayune as "too inordinate to print in full". It was his opinion that Van Buren's strain of remarks had not been anticipated by many of his political supporters for the Presidency. The most significant portion of his letter was held to be that dealing with the constitutional power of the United States to bring other states into the Union. As to the expediency of the measure, his views were not unlike those of Webster and Clay. It was derogatory to the dignity of this country to go to war with Mexico over the acquisition of Texas. "A magnanimous and powerful people should ignore the gasconading tone of Mexican diplomacy".[12]

The *Baton Rouge Gazette*, a Whig organ, found Clay's letter a clear, argumentative document, defining his position on the Texas question in a bold, statesmanlike manner. Van Buren's letter, though beautiful, "has come on the locofocos like an electric shower". The only alternative for them was to throw off Van Buren and raise the flag of "Tyler and Texas". It was unfortunate that Clay had declared his opinions on the eve of the Baltimore Convention. But it proved he was an honest man, and that his promises could be relied upon.[13]

To what a slight extent the issue of annexation was dealt with upon its merits is disclosed by the attitude of the *Bee*. Eight years before that journal had vigorously espoused the acquisition of Texas by the United States. Now it added its voice to the chorus of denunciation which the Whig papers let loose upon Tyler.[14] The documents which had been made public in connection with the negotiation of the treaty were neither creditable to the diplomacy of this government nor to the fame of Upshur, but were characterized by a morbid and feverish credulity. Could anyone doubt that the negotiation was "begun in selfishness and consummated in fraud?" The correspondence dealing with the subject seemed to have been gotten up and conducted with the especial purpose of influencing sectional feeling and ill will between the states. The documents were disparaging to the good faith and intelligence of the nation. Texas had been seduced into the negotiations by gross misrepresentations.[15] The *Baton Rouge Gazette* declared the proposed treaty would amount to a

[12] Issue of May 7, 1844.
[13] Issue of May 11, 1844.
[14] Cf. Smith, *op. cit.*, 183.
[15] Issues of May 7, 24, 30, 1844.

breach of national faith and honor so far as Mexico was concerned, besides being a gross abuse of the treaty-making power.[16]

Attitude of New Orleans Citizens

It was to be expected that the citizens of a city which had played such an important part in the Texas revolution, and whose commercial intercourse with that country was so varied and extensive, should have been concerned with the outcome of the struggle over annexation. As in 1835-1836, when the issue of recognition was uppermost, their views on the matter of annexation found expression in public meetings. A description of one of these will suffice to illustrate the nature of these assemblies. On Wednesday, April 24, what was said to be one of the largest and most influential gatherings of citizens was called to order at Banks' Arcade—a well known gathering place for all kinds of meetings—by Judge Clark Woodruff. He nominated Charles Derbigny, Speaker of the House of Representatives, as chairman. Governor Alexandre Mouton was invited to take a seat upon the platform. A list of non-partisan vice-presidents and secretaries was then read. A committee was appointed by the chair to draft appropriate resolutions. An eloquent address by Alexander Bullitt, editor of the *Bee*, followed. Editor Jones, of the *Bulletin*, presented a set of resolutions, which were adopted with enthusiasm and unanimity. These were as follows: "We are emphatic in the righteousness, the justice, and the policy of annexation. The measure is not only one of policy, patriotism and philanthropy; it is advantageous from an economic point of view; it will tend to enhance the security of the Union; it will give strength and tranquillity to an exposed section of the country. It will tend more than any other measure to ameliorate the servile population of the country, and through benefits conferred, reflect advantages upon the whole race. The right of the several states to regulate each its own domestic affairs, including Negro slavery, existed antecedently to the Constitution, and still exists. The doctrine that would exclude new territory because it contains slavery, is insulting and derogatory to the South. Frightful consequences would ensue to the northern states (pauperism) from damming up the natural flow of population to the South and

[16] Issue of May 11, 1844.

West. Mexico should be treated with magnanimity as a weaker power, but the United States had a perfect right to treat with Texas. We cherish a sincere attachment and reverence for the Union and the Constitution, but the peace of the country, and the safety of the Southwest forbid Texas staying in a precarious situation, liable to fall a prey to the ambition of states with interests hostile to ours".[17]

It will be noted that most emphasis was placed in this statement upon what has been termed the sectional motive or argument, a motive which it would seem has not been sufficiently emphasized by writers upon this subject. As is well known the need for security for the Southwest was one of the prime reasons set forth by General Jackson for the acquisition of Texas. The *Picayune* in commenting upon the "monster meeting", representing all classes and parties, affirmed that the people of Louisiana were almost to a man unanimous and undivided on the issue, despite several anonymous communications appearing in the *National Intelligencer* that the people of Louisiana were opposed to annexation, believing such a measure would clash with their interests.[18] On another occasion the same journal expressed the opinion that there was "little difference of opinion among nearly every class in this section as to the justice, policy and absolute necessity of admitting Texas to the Union". It affirmed that the "policy of the President is generally approved in this section of the South; a united press would strive in vain to stem the strong current of popular feeling which prevades its citizens".[19] As will be shown later, the view set forth in the *National Intelligencer* was decidedly more in accord with the facts than were the greatly exaggerated statements of the *Picayune*.

Brief mention may be made of a "large", influential and enthusiastic" meeting in favor of annexation by treaty in the bar room of the St. Louis Exchange on May 3, those opposing being an exceedingly small minority, "imperceptible in proportion to the majority". Another held at Banks' Arcade on May 10 was presided over by General J. B. Plauché. A fervid and eloquent address was delivered by General Felix Huston, one of the leaders of the so-called left wing or chivalry group of Mississippi Demo-

[17] *Bee*, April 25, 1844; *Picayune*, Apr. 25, 1844.
[18] Issue of Apr. 26, 1844.
[19] Issues of Mar. 26, 27, 1844.

crats. The nomination for the presidency of John C. Calhoun, who was popular in New Orleans, by one present, was greeted with applause.[20]

Attitude of the BEE and the PICAYUNE

In view of the decisive influence exerted by the New Orleans press at this time as at the period of the Texas revolution, something should be said about the attitude of these two prominent journals. According to the *Picayune* annexation was ever deemed grave, momentous, and a measure fraught with far-reaching consequences; it had sprung into sudden and startling importance. Calhoun had been appointed secretary of state as was generally supposed, for the purpose of dealing with this very question; he could arrange the details to the entire satisfaction of the southern country, if not of the whole nation. In order to recover a magnificent territory, which once incontestably belonged to us, the editor was confident that on this as on other grounds, the South almost to a man would sustain the policy of the President in achieving this end. There could be no doubt of the ability and integrity of John C. Calhoun.[21] In a subsequent article the editor sought to refute the argument of those who contended that annexation by joint resolution was a violation of the Constitution. The power to acquire territory might be exercised in any way a sovereign power might deem safest or most expedient. The sectional implications of adding more slave territory to the Union were emphasized. It was affirmed that experience had sanctioned a mild system of servitude in the South as advantageous to both white and black, who, if not for this, "would fall by the ears in perpetual strife, until one or the other became extinct".[22] The editor quoted approvingly the *Charleston Mercury* to the effect that annexation would strengthen the South in her sectional power, her influence in the general government, and in the security of the slave population. An outlet would thus be afforded for the surplus servile population, "thus accelerating the extinction of slavery in the older slave states, until it shall disappear in Mexico and the Californias,—the 'land of amalgamation' ".[23] It

[20] *Picayune*, May 4, 11, 1844.
[21] Issue of Mar. 26, 1844.
[22] Issues of Jan. 9, Mar. 20, 1845.
[23] Issue of Dec. 8, 1843.

will be recalled in this connection that Robert J. Walker, in his famous letter on the desirability of annexation, contended that the acquisition of Texas would enlarge the area of freedom.

The *New Orleans Bee* was one of the most influential Whig journals in the South. Over and over again its editor protested that he was not opposed to annexation *per se*, but only to the reprehensible manner in which the administration sought to accomplish this end. It was an easy matter to bully Mexico, though less reputable on account of the weakness of such an adversary. For the Executive to carry on such a negotiation in darkness and mystery, and endeavor to consummate it with the secrecy and stealthiness of a treasonable conspiracy, was a proceeding calculated to arouse temper and awaken keen resentment. There was no necessity to justify a gratuitous underhanded forestalling of public opinion, which had been surprised at the indecent haste in pushing the matter through the Senate.[24]

Needless to say the motives of President Tyler were castigated by the *Bee*. He was characterized as imbecile and vainglorious, whose political necessities probably suggested the agitation of the question as a means of escaping the stagnant oblivion that awaited him as a politician. A "little leaven of patriotism had been mixed up with a mass of selfish intrigue". Not only was the President charged with imbecility, but with downright corruption in undertaking a negotiation "so shameless in character, so fraught with guile, prevarication and downright hardihood of asseveration, as to cause those to blush most who loved their country best". A havoc had been made of truth, honor, and national dignity; the correspondence of the Cabinet reeked with the grossest of vices. The naive suggestion was made that Texas would be safer in Whig hands; this party could be trusted not to subordinate other important issues to annexation, and to bring it about at the earliest period compatible with our duties and responsibilities as a nation. In reply to the *Herald*, which believed that posterity would heap "deep, blighting, and withering curses" on southern Senators who voted against the treaty,—since the only security of the South lay in the acquisition of Texas—the *Bee* was confident that all would bestow a meed of praise on the Senate for having crushed a proceeding so disgraceful in its in-

[24] Issues of Mar. 28, 30, 1844.

ception and progress; for ratification of the treaty would have exhibited contempt for the obligations of honor and morality. Texas was a slight compensation for the loss of national character. And then there were signs and omens of alarming portent in the air,—a reference to the disunionist movement in South Carolina.[25]

It is somewhat amusing to note that Tyler's failure to receive the Democratic nomination awakened the sympathies of the *Bee*. A gross injustice had been done him, and he had been treated with characteristic ingratitude by his party. An ill-treated and ill-requited man, he should have received the nomination.[26] There was one exception to the partisan manner with which the issue of annexation came to be dealt with by the Whig and the Democratic journals of the South. This had to do with the danger of foreign intervention, against which there was virtual unanimity of protest by every southern editor, regardless of his party affiliations.

British Designs

Authoritative writers in this field have pointed out how deeply England was concerned in uprooting slavery in Texas.[27] While the suspicions of the New Orleans journals of the designs of 'perfidious Albion' were based largely upon rumor and conjecture, yet their editors sensed to a remarkable degree the schemes of that country with regard to effecting abolition in Texas, and the effect this would have upon the institution in the southern states. The fact that an abolitionist movement existed in Texas in the spring of 1843 naturally rendered the New Orleans journals all the more sensitive touching the designs imputed to England in that quarter. The *Bee* declared that the conversion of Texas into a free state was being openly advocated. English emissaries were propagating incendiary doctrines among the citizens of that republic. Her darling object of achieving abolition in Texas would be disastrous to the southern states of the Union. "Did Great Britain ever abandon a scheme once adopted as essential to her prosperity? Her one thought is to enlarge her domain or to weaken the power of her rival. It behooves the proud, patriotic and chivalrous portion of Texas to watch the movements of a

[25] Issues of Apr. 27, May 9, 24, 29, 30, June 18, 27, 1844.
[26] Issues of May 14, June 25, 1844.
[27] Smith, *The Annexation of Texas;* Ephraim D. Adams, *British Interests and Activities in Texas, 1838-1846.*

powerful, wily, and unscrupulous enemy". All that the South desired was to be left alone to manage its own affairs in its own way. Abolitionists, rightly characterized by a writer in the *London Chronicle* of January 11, 1843, as the "greatest marplots that ever injured a good cause", could only succeed by changing public opinion in the South by the still, small voice. Unless Texas were annexed to the United States, the rumored treaty between that country and Great Britain—the latter guaranteeing its independence from Mexico in return for the abolition of its slaves—would enable the greatest naval power to encircle us in her arms. Any such treaty, therefore, should be opposed by the Federal Government. The *Bee*, would not have been surprised if Houston had not stimulated the abolition scheme by his connivance, since he was capable of the most criminal and treasonable practices. It were charitable to suppose that insanity was responsible for his "demoniacal resolve to inflame the elements of civil discord".[28]

The *Picayune* quoted approvingly General Jackson's letter in the *Nashville Union* of May 16, 1844, to the effect that unless Texas were speedily admitted, her alliance with a foreign power would render New Orleans, and indeed the whole Mississippi Valley, vulnerable from a military point of view. No confidence could be placed in a nation that "has plundered every continent, pillaged every sea, despoiled the African, the Indian, the white man and the Moor; a Government that has bullied the meek, overawed the simple, and robbed all; that has battered down cities, because they would not buy poison of her subjects; corrupted courts, overrun empires, made the lean earth fat with the blood of slaughtered hecatombs—for such a Government to protest is one of those acts that loses the quality of arrogance in the immeasurable sublimity of its impudence. Will no amount of territory satisfy her capacious maw? Her sole interest is that of opposing the progress of American principles, and of resisting the spread of republican principles". "Night is not broad nor dark enough to envelope her enormities". The *New York Journal of Commerce* was cited as authority that at the time of the defeat of Santa

[28] Issues of Apr. 16, May 1, 20, 22, Dec. 7, 1843; Apr. 22, May 18, 1844. Cf. however the *Baton Rouge Gazette*, May 20, 1843, which quotes the *Bee* to the effect that the rumor of English interference in Texas was a sheer fabrication; that the entire scheme originated with a talented enthusiast who came from England to Texas to preach abolition. Upon his coming to New Orleans *incognito*, he was advised by the *Bee* "to scatter". The individual referred to was S. P. Andrews, who was in New Orleans on April 21, 1843. See the *Bee*, May 6, 8, 1844. His operations in London were held to be the moving cause of the negotiations resulting in the treaty.

Anna, a treaty was in progress between Mexico and Great Britain providing for the cession of California and New Mexico to the latter country. The readers of the *Picayune* also had their attention called to the revelations of a correspondent of the *New York Commercial* that the British Anti-Slavery Society stood ready tc pay Texas $6,000,000 for emancipation of its slaves, Mexico in return to acknowledge the independence of that country. Another thing that disturbed the editor was report of the unusual intimacy and intercourse of the British and the French ministers at Washington. To prevent the consummation of the unholy designs of Great Britain, the United States should welcome a conflict with that country, since we were as well prepared for war as could be expected.[29]

In contrast with the bitter attitude of the *Picayune*, the *Baton Rouge Gazette* affirmed that the time had not yet come for so important a step as annexation. While the security of this country demanded that Texas should never fall into the hands of Great Britain, that power evinced no desire to obtain it. It would be impolitic for us to act on the offensive, without reasonable grounds, towards any other nation. On the contrary the editor protested against "embezzling the whole United States in a war to save worthless private scrip and titles to land in a country that had not yet shown she can maintain her independence."[30]

Alexander Barrow Opposes Annexation

One of the most pronounced opponents of annexation among southern statesmen was the senior Whig Senator from Louisiana.[31] On the last day of January, 1844, the Texas consul at New York forwarded several letters, one of which was written by Senator Barrow, to a member of the Texas cabinet. The contents are not precisely known, but the recipient informed Anson Jones that he would be convinced by them of the impossibility of effecting annexation, at least during the current year.[32] On May 24, Senator Barrow had issued from Washington an address to the "People of Louisiana". In this he set forth at length the grounds of his opposition to the treaty. There was no necessity for the measure;

[29] Issues of Apr. 23, May 25, Dec. 27, 1844; Mar. 1, 2, 1845.
[30] Issue of Aug. 3, 1844.
[31] General Waddy Thompson, of South Carolina, writing in the *National Intelligencer* of July 6, 1844, opposed annexation on economic grounds.
[32] Smith, *op. cit.*, 163.

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it would involve the nation in an unjust war, and would in an especial manner prostrate the best interests of Louisiana. Only four slave states could be carved out of Texas, and what would become of this equilibrium when the vast country of the Northwest came to be carved into free states? The Lower South was being supplied with slaves from Virginia, Tennessee and Kentucky; if Texas were annexed, some, if not all, of these states would be drained of their slaves. If these states should join the non-slaveholding states, the beam would be kicked with a vengeance. He hastened to declare that he did not believe slavery a political or moral evil. He was convinced that the annexation of Texas to the United States, contrary to the view generally entertained, would not give any additional security to the South.

So far as military security was concerned, the best way to protect New Orleans was to complete Fort Livingston.

The abolition of slavery implied the dissolution of the Union, which means civil war. The interest, if not the patriotism of the North, would forbid such an idea. In the event of civil war, the South would be weaker with a scattered white and slave population. Her frontiers were double in length those of the North, her population more "sparse." "If all fail, we must rely upon our own stout arms and brave hearts for the defense of our property and firesides".

As to the danger from England—one of the main arguments of the annexationists—he declared that country's desire was that Texas should become separate and independent. Any attempt on the part of that power to colonize Texas, or to interfere in her internal affairs, would be considered an aggression by the United States, and resisted accordingly.

In the opinion of Barrow ratification of the treaty would reduce the value of lands in Louisiana 75 per cent, her staple crops 50 per cent. Emigration would flow from Louisiana to Texas, thus killing the demand for land in the former state. Texas planters would compete in sugar and cotton, with cheaper land to boot, with the planters of his own state. This would mean 200,000 additional hands employed in raising cotton, and 50,000 additional in sugar. Annexation would add one million bales of cotton, and 50,000 hogsheads of sugar. This would involve a reduc-

tion in the value of each of over 50 per cent. He protested against sacrificing such important issues as national currency, the tariff, distribution of public lands for that of annexation.

True to his colors Barrow declared the treaty had its origin in the "most selfish, unscrupulous, and ambitious motives on the part of the Chief Executive, and was consummated by the practice of a gross fraud upon the Executive of Texas".[33]

The *Bee* found Senator Barrow's address a straightforward and able paper, presenting the issues in a practical light, with good judgment and great candor. It added that many of the most intelligent citizens considered annexation fraught with mischief to the South.[34]

In the debate in the Senate in February, 1845, when Senator Benton's proposal for the admission of Texas was under consideration, Barrow modified considerably his hostility to annexation. He now proposed, if the committee should delay making a report, that Benton's bill be offered as a substitute for the one from the House. He expressed the opinion that a large proportion of the Senate of both parties that was opposed to the House measure would, if constitutional objections were removed, be "very glad to see Texas annexed". Otherwise he would be bound to oppose the attempts being made to bring the matter before the Senate. "If the people of Louisiana choose to bring upon themselves the ruin which the annexation of Texas would bring upon them as planters and producers of sugar, he would hesitate long before he would resist their desire, provided there were no constitutional objections in the way". Opposed to the House bill, he would favor the Senate measure with one exception—that the incoming administration be given the power to make a proper treaty. Like most Whig senators Barrow denied the constitutionality of annexation by joint resolution.[35]

Annexation in the Legislature

On May 24, 1844, Alcée Labranche, a member of the lower House, asked leave to present a memorial of certain citizens of New Orleans in favor of the re-annexation of Texas. A motion

[33] *Congressional Globe*, Vol. 14, 28th Cong., 2. Sess., 390-394. Cf. Smith, *op. cit.*, 240, and Columbus (Miss.) *Whig*, June 20, 1844.
[34] Issues of June 2, 3, Dec. 25, 1844.
[35] The contest in the Senate is described in detail in Smith, *op. cit.*, ch. XVI. Cf. *Baton Rouge Gazette*, Feb. 22, 1845.

to refer the same to a select committee was rejected by a vote of 98 to 73. Likewise a motion to lay on the table was lost by a vote of 103 to 78.[36]

In January, 1845, Governor Alexander Mouton sent a message to the legislature advocating annexation: "The question of annexation is one of the greatest importance to our welfare and tranquillity, and one certainly calculated to affect seriously in its results for good or evil the interests of the whole Union. Late events together with the light that has been thrown upon it by discussion, have satisfied the great majority of people, not only of the propriety, but of the necessity of the measure; although of the advantages that may be derived from it, in a pecuniary point of view, more will accrue to that portion of the Union engaged in commerce and manufactures principally than to ourselves; yet, in adding to our safety and tranquillity, it is recommended to us by the most weighty considerations.

"Considering the great interest that has been excited throughout the State and the important bearing upon our future prosperity, I suggest the propriety of such action as would be most expressive of the wishes and feelings of the State as regards the measure".[37]

A select committee upon the Governor's message, F. Burthé as chairman, reported as follows: " . . . After mature reflection the majority of your committee have come to the conclusion that it is inexpedient for this House to take any action upon that question, in advance of instructions from their constitutients". A resolution to that effect was accordingly moved. For the minority Charles Gayarré reported: "Resolved, That it is the anxious wish of the people of Louisiana that Texas shall be immediately annexed to the United States by all lawful and constitutional means". He urged the adoption of the minority report, since a majority of three only in the United States Senate were opposed to the measure, among whom were the Louisiana senators. While the Whigs had a majority of eight in the House, it was believed the Democrats would vote as a unit for the minority resolution, and probably a few Whigs from the northwestern part of the State.[38]

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[36] *Picayune*, June 2, 1844.

[37] *Picayune*, Jan. 7, 1845; *Baton Rouge Gazette*, Jan. 11, 1845; *Niles' Register*, LXVII, 346.

[38] James K. Greer, "Louisiana Politics, 1845-1861", *Louisiana Historical Quarterly*, Vol. 12, No. 3, 405-406.

On January 14 a compromise resolution, introduced by Campbell, was adopted by the House by a vote of 38 to 16, and concurred in by the Senate by a vote of 12 to 1. This was as follows: "That it is their deliberate opinion that a majority of the people of Louisiana are in favor of the immediate annexation of Texas to the United States by any lawful and constitutional means, provided it be stipulated in the act of annexation that Texas shall enjoy all the rights and privileges now secured to that portion of territory ceded by France to the United States under the name of Louisiana, and lying south of 36° 30′ north latitude". The Governor was instructed to transmit the above to the representatives of Louisiana in Congress.[39]

Whig Political Activities

By 1844 the Whigs of Louisiana, as in other southern states, were well organized and served by capable leaders. Needless to say, in the *Bee* they had a tower of strength. Louisiana was normally a Whig state unless some foreign question disturbed the political equilibrium.[40] The party leaders looked forward with confidence to the presidential campaign of 1844, and early in the year inaugurated the practice of holding hurrah rallies, in which was proclaimed their devotion to their peerless leader, Henry Clay. In January the Whig members of the Legislature held a meeting presided over by Dr. Walter Brashear with Wm. C. C. Claiborne, secretary. The faithful were exhorted to rouse themselves and to shake off their apathy. One speaker paid a glowing tribute to John C. Calhoun. Their enemies, uniformly styled the Locofocos, were only held together by the cohesive force of public plunder. The pageants and symbols employed in 1840 were only the natural expression of excited feelings, characteristic of large assemblages of freemen preparing by peaceful means to vindicate their rights. No allusion was made to Texas on this occasion.[41]

On February 22 a Whig convention assembled in New Orleans. According to the *Picayune* three thousand of the party

[39] *Picayune*, Jan. 15, 1845. The composition of the legislature was as follows: in the House, 34 Whigs, 26 Locos; in the Senate, 9 Whigs and 8 Locos. *Bee*, July 12, 13, 1844; *Baton Rouge Gazette*, July 27, Sept. 1, 1844.

[40] For an interesting account of the political and economic situation in the State at this time, see Greer, *op. cit.*, 383-402.

[41] *Baton Rouge Gazette*, Jan. 13, 1844.

came together from every part of the State. They marched through the principal streets of the city, with martial music and waving banners. Sargent S. Prentiss spoke long and eloquently arraigning the Democrats for their anarchy and agrarianism. A "highly wrought eulogium" of Calhoun followed. Clay appeared at the St. Charles Exchange, exhorting his followers to "Go ahead in the good cause—go ahead"! Again no reference was made to the Texas question. It was while in New Orleans at this time that Clay became apprised of the Texas treaty providing for annexation.[42] On Saturday, May 18, a Whig meeting was held at the American theatre for the purpose of ratifying the nominees of the Baltimore convention. The call for this meeting was signed by over 500 Whigs. Addresses were delivered by Judges Jackson and Ogden, Alexander C. Bullitt—editor of the *Bee*—by Randell Hunt—the well-known lawyer—and by William H. Christy, who had been so active in arousing sympathy and aid for the Texan revolutionists. In regard to annexation the gathering went on record as follows: "We discover nothing in Clay's position on annexation that can impair our confidence in him as a sound, enlightened statesman and patriot; in his Texas letter is to be found abundant proof of his ardent love of his country. . . . Any attempt on the part of any European power to subjugate Texas should be resisted by the United States unto war". With this exception the same issues were declared to be involved in the current campaign as were stressed four years before.[43]

In August the Clay clubs of East and West Baton Rouge held a celebration at that place. The guiding spirits were James Elam and General Philemon Thomas. The following high-flown resolution was adopted: "Clay's powerful genius will find in our constellation a place for the brilliant star of Texas, when that shall be achieved, while conserving the noble rays that decorate our banner". Voters were urged not to be influenced by the fear of the military power or influence of Great Britain.[44] On September 21 H. G. Henderson delivered an address in Baton Rouge on the occasion of the raising of a Whig liberty pole. In this he voiced the objection of his party to the acquisition of Texas. There was no need for any more territory; the public lands of Texas were

[42] *Picayune*, Feb. 23, 1844.
[43] *Picayune*, May 19, 1844; *Bee*, May 20, 1844. Similar meetings were held until the close of the campaign.
[44] *Baton Rouge Gazette*, September 21, 1844.

covered with titles a foot deep. Annexation would violate a solemn treaty with a sister republic, and the autocrats and tyrants of the old world would rejoice. In the eyes of the whole world Mexico would be justified in declaring immediate war upon us. He charged some with advocating Texas or disunion. "Rapacious attempts to acquire additional territory would offend the Divine Being".[45] On October 7 the most imposing mass meeting of the campaign was called to order by James B. Elam at Baton Rouge. Twelve steamboats carried the crowds from New Orleans. According to Whig journals there were ten thousand in conclave on this occasion. Letters were read from Sargent S. Prentiss and Dr. S. A. Cartwright, of Mississippi—a prominent champion of protectionism. Addresses were delivered by Colonel Adam L. Bingaman and William Yerger, prominent Mississippi Whig leaders. Eighty-six young ladies presented a silken banner, on which was inscribed, "Whigs or no husbands". A series of resolutions were adopted, of which the seventh dealt with Texas: "However desirable the extension of territory by the annexation of Texas might be, the Whigs of Louisiana are unanimously opposed to the measure unless compatible with the honor of the country and the stability of the Union". This statement may be said to have summed up the attitude of southern Whiggery upon the subject. The *Bee* jubilantly declared the Locofocos were astounded and appalled by this assemblage which "eclipsed in splendor, magnificence, imposing array, and every attribute of grandeur, any public gathering ever convened in the Valley of the Mississippi", with the exception of one held in Nashville.[46] The Whig rallies were certainly not devoid of enthusiasm. According to the *Picayune* that party undoubtedly had the most money.[47] On the whole however the impression is gained that the annexation issue was by no means the sole, or even the most important, issue in the minds of the party leaders. According to the *Bee*, in Whig meetings held in Thibodaux and in other places in September, the Texas question received scant, if any consideration.[48] In commenting upon the address of a Loco declaiming against the short-sighted and compromising policy of Monroe in ceding Texas for Florida, the

[45] *Ibid.*, Sept. 28, 1844.
[46] *Ibid.*, Oct. 12, 1844
[47] Issue of Feb. 25, 1844.
[48] Issue of Sept. 27, 1844.

Baton Rouge Gazette rejoined that the treaty of 1819 must now be set aside to subserve the Texas humbug and secure the election of "Young Hickory".[49]

The Whigs and the Tariff

In the case of some southern states, Mississippi for instance, it is difficult to say to what extent the annexation issue was a dominant motive in the minds of the voters in the election of 1844; for a number of other issues were involved in the election of that year. In the case of Louisiana, however, it can be readily shown, so far as the Whigs were concerned that, in their eyes, the tariff far outweighed annexation as a decisive factor in the election. Nor is this surprising when it is recalled that the Whig sugar planters were solidly opposed to the acquisition of Texas on economic grounds. According to the census of 1850 there were some 1400 sugar plantations in the State, the average having approximately 100 slaves of all ages, and producing 300 hogsheads or 150 tons of sugar as an average crop. Because of the short season and the increase in the price of the labor supply, due to the expansion in the production of cotton, the sugar planter looked to the tariff as a source of protection for his profit. The Act of 1842 raised the tariff upon sugar at a time when the price of cotton was low.[50] Thus it is not surprising that the Whigs of Louisiana should have endeavored to show that the election of Polk would be fraught with menace to their economic interests. By the Whig journals he was depicted as a free trade candidate, whose doctrines were inimical to the best interests of Louisiana. They derided his "Janus-faced policy of strutting about Pennsylvania in favor of the principle of protection, while championing free trade at the South". If Texas were annexed the 50 or 60 millions of capital invested in cane culture would have to be diverted into the excessive cultivation of cotton. According to the *Bee*, the vast majority of the people of Louisiana were steady advocates of a protective tariff. Southern Locofocoism, it declared, was clamorous for free trade, with the exception of Louisiana, where the sugar interests kept it dumb, or rather forced it to a sort of quasi-support of a protective tariff.[51]

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[49] *Baton Rouge Gazette*, Sept. 14, 1844.

[50] Greer, *op. cit.*, 399.

[51] Issues of Jan. 5, May 17, 31, Nov. 4, 1843; July 16, 20, 26, Sept. 21, 26, 30, Oct. 1, 16, 1844. The *Baton Rouge Gazette*, Oct. 5, 12, 1844, devoted eight columns to an address by Dr. S. A. Cartwright at Natchez on September 14, extolling a protective tariff.

Governor A. B. Roman, in his message to the Legislature in January, 1843, declared the only effective remedy for contemporary evils lay in the encouragement of home industry; therefore he advised a minimum duty on sugar and on cotton goods.[52]

In commenting upon the results of the election, the *Bee* affirmed that Texas and the tariff were the two prominent measures of policy which called forth discussions and controversy, and contributed very materially to the election of Polk.[53] In view of the prominence given by Whig journals to the latter subject, and the relatively casual manner in which the annexation issue was dealt with in their political gatherings, it is difficult to resist the conclusion that a tariff upon sugar was a more vital matter, in the mind of the Whig voter, than the acceptance or rejection of Texas.

Two Letters on Annexation

What was the opinion of the co-called average citizen in Louisiana touching the matter of annexation? It is difficult to dogmatize upon this, for only rarely does one come across any expressions of opinion on this subject by individual citizens. The following communications represent two contrasting views on the subject. One of these was written by one styling himself "A Whig to the Backbone", and read as follows: "With our present territory, we can with difficulty, maintain peace and harmony among our various states. Where is any evidence of a foreign power meditating the conquest or annexation of Texas? If England by a treaty inaugurates free trade with that country, it is far better to have the experiment tried out of the United States. It would be a violation of our treaty with Texas for England to attempt such a breach of good faith, as it would be for the United States to violate its treaty with Mexico by the taking of Texas. They say we will have Texas even though disunion and an unknown national debt the price".[54]

The other communication emanated from "Up the Country" and dealt with the issue in a humorous vein. "I'm for annexation, only conditionally. If Texas wants to come to us (& I know she duz) we'd ought to take her. If Texas would strengthen the

[52] *Bee*, Jan. 4, 1843.
[53] *Ibid.*, Dec. 4, 1844.
[54] *Baton Rouge Gazette*, Sept. 7, 1844.

South (& I know she would) she'd strengthen the Union, & we'd ought to take her. If Texas has rich lands and can raise sugar, cotton, & all that sort of thing, we'd ought to have her, to add wealth to our country, instid of somebody else's havin on her. If England wants to abolish the niggers in Texas (& I know she duz,) & to abolish our Glorious Union into the bargain, and to keep her from duin on't, we'd ought to take right hold of Texas, afore she gits cobwebs wound round her. Spiders most ginerally work in the dark—so does England. . . . Now we mustn't let England spin her cobwebs round Texas. . . . They will form a part of this glorious Union some time or another. Why not take'em now? Fellow citizens, I'm for immediate annexation".[55]

The Democratic Nominees

At the State convention held in New Orleans in January, 1844, Van Buren received 87 votes, and Calhoun 40. The former was thereupon nominated by acclamation, with one dissenting vote.[56] The Washington correspondent of the *Picayune*, writing under date of May 23, expressed the opinion that Van Buren would be the nominee of the Baltimore Convention. The story of the intrigues that led to the shelving of Van Buren and the nomination of Polk has been told elsewhere.[57] It may well be believed that the selection of Polk as the standard-bearer of the Democratic Party took the city of New Orleans "completely by surprise".[58] According to the *Bee*, but for the happy conceit of nominating a man for the Presidency who was never dreamed of for that office by the constituents of any member of it, the convention, so nearly resembling a mob, would have disbanded in rage. Southern chivalry had secured its Texas candidate in consequence of the toils and traps prepared by a knot of intriguers for Van Buren's friends. It might have added that among those intriguers who had labored indefatigably in bringing about the result of the nominating convention was Robert J. Walker, of Mississippi. According to the editor of the *Bee*, Polk, the so-called 'people's candidate', had been forced upon the 'Democracy' by southern radical-

[55] *Picayune*, June 9, 1844.
[56] *Ibid.*, Jan. 11, 1844.
[57] Smith, *op. cit.*, 250-252; an article by the writer, "The Lost Commission: A Study in Mississippi History", *Mississippi Valley Historical Review* V, 158-189. The *Southwestern Social Science Quarterly* for March, 1934, contains an article on "Polk and the Annexation of Texas".
[58] *Picayune*, June 7, 1844.

ism and Texas speculators. It was feared by those representing these influences that with Van Buren as a candidate, the influence of the Texas question would have been neutralized. The nomination had been based upon the supposedly overwhelming power of an issue meanly filched from President Tyler. "Immediate annexation was purloined from Captain Tyler to entrap slave-holding states into support of locofocoism". The editor of the stalwart Whig journal found comfort in his belief that there was no reason to suppose the Texas question would increase the Loco strength in any other southern states with the exception of South Carolina.[59]

Even before the annexation issue had been injected into politics by President Tyler, the *Bee* had expressed the opinion that Van Buren never had any strength of his own; there was "no hurrah" in him. He lacked heart, though possessing an abundance of intellect, with a shrewd, astue, sagacious mind, accompanied by plenty of diplomatic skill. He had the very qualities of an intriguing politician, who stands behind the curtains and pulls the wires. His cold selfish character rendered him deplorably weak before the people as a presidential candidate.[60] This represents the conventional view of the man, who had stirred up at the South such universal animosity with seemingly so little provocation.[61] It has been reserved for more recent writers to dispel the curious cloud of suspicion that at one time threatened to envelop him, and to take his full measure as a statesman.

Election Returns

The results of elections in New Orleans and throughout the State for the years preceding 1844 were not sufficiently decisive for either party to look forward with confidence to the outcome of the balloting in the November election of that year. In 1840 a Whig candidate for mayor of New Orleans had been elected by a plurality of something more than a hundred over the highest Loco candidate. According to the *Bee* the average Whig majority in the city was about that figure. Two years later the defeat of their candidate for this office was attributed by that journal to the apathy of the Whigs. The first municipality was generally

[59] Issues of June 4, Aug. 13, 15, 1844.
[60] Issue of Oct 7, 1843.
[61] A. C. Cole, *The Whig Party in the South*, 13, 14, 39, 40.

Loco; and in the summer when the well-to-do Whig merchants were away, was almost hopelessly so. In an election for the office of Recorder, comprising the five wards of the city, in September, 1843, the Whig candidate won by a majority of 183. In July elections of that year the Whig vote for the State as a whole fell 5000 to 6000 short of that of 1840, a loss being sustained in such normally strong Whig parishes as St. Landry and St. James. This falling off to such a marked degree in the Whig vote was attributed by the *Bee* to over-confidence; it urged every good citizen to lend a helping hand to stay the tide of radicalism threatening to overrun the city.[62]

Inasmuch as there was no requirement for the registration of voters in the Constitution of 1812, there was nothing to prevent the exercise of the suffrage by a voter in any electoral precinct in the parish in which he had his residence. At an election for State senator in 1844, the Locos with the aid of 1000 spurious certificates according to the *Bee*, polled 1,926 votes; the Whigs, 1,528. In the municipal contests at the same time, the Whig vote was 1,712; the Loco vote, 1,915. The second municipality returned a Whig majority of 375; in the first and third the Loco majorities had been "swollen beyond all precedent".[63]

On July 3 a large mass meeting of Whigs was held in the ballroom of the St. Louis Hotel to protest against the elective franchise outrages.[64] In the elections held in this month, the Whigs gained a member of Congress and a state senator, giving them control of the Legislature on joint ballot. The *Bee* estimated there was a Whig gain of some 1500 over the vote polled the year before.[65] The composition of the Legislature was as follows: in the Senate, 8 Whigs, 9 Locos; in the House, 34 Whigs and 26 Locos. The congressional delegation at this time consisted of three Democrats and one Whig; among the former was John Slidell, elected in 1842.[66] The two Whig Senators were Alexander Barrow and ex-Governor Henry Johnson.

In commenting upon the results of the July election, the *Bee* expressed its opinion as follows: "On looking over the returns

[62] Issues of Feb. 8, Sept. 8, 25, Oct. 10, 1843; July 2, 3, 1844. For the three municipalities into which the city had been divided in 1836, see John S. Kendall, *History of New Orleans*, 1 138; Greer, op. cit., 391-394.
[63] *Bee*, April 5, 1844.
[64] *Bee*, July 4, 1844.
[65] Issue of Sept. 13, 1844.
[66] *Picayune*, July 14, 1844.

of the Louisiana election, as far as they have been received, it is impossible to avoid the conclusion that the make-weight of the Texas question, by which it was expected to carry the State in favor of the Democratic ticket, has not had the effect which many anticipated. The Whigs, it is true, have nothing to boast of; but they who thought the Texas question would carry all before it, are disappointed. Texas won no converts from our ranks save a few interested speculators. An overwhelming majority of the State favor annexation, but a majority is opposed to its consummation by treaty. The people are not to be diverted from the great principles of two parties by extraneous questions".[67] This view is confirmed by a letter published in the *National Intelligencer* of July 24, said to have been written by a distinguished citizen of Louisiana. In this he observed that a "complete intermission of the Texas fever could be observed in his State". This situation was attributed to the fact that the sugar planters opposed annexation almost solidly.[68] It was the belief of the *Bee* that the Texas question would not deprive Clay of more than 200 votes; it remarked that little attention was being paid by the Whigs to that issue as the campaign drew to a close. Here and there a Texas monomaniac exhibited symptoms of defection, but the great body of Whiggery in the State was sound.[69]

A feverish activity characterized the party leaders as the November election drew near. In New Orleans ward and precinct organizations were perfected. In mass meetings prominent Whig leaders extolled Clay and upheld the principles of their party, which stood for law and order. Locofocism was rebuked as demoralizing, reckless and base.[70] The Whigs, it was averred, were for elevating the poor; their opponents would level the rich. The Democrats, on the other hand, refrained from indulging in oratory, but quietly and persistently perfected their ward organizations.

When the votes were counted, the returns showed a plurality of less than 1000 for the Polk electors. In Louisiana as elsewhere in the South, the defeat of their great leader by a candidate unknown to fame and to fortune brought grief and dismay to the Whig voters. From the returns printed in the *Bee*, the official vote for Polk was 13,477; for Clay, 12,818, thus giving the former

[67] Issue of July 29, 1844.
[68] Smith, *op. cit.*, 288.
[69] Issues of June 28, Sept. 5, Oct. 22, 1844.
[70] *Bee*, Apr. 6, 30, 1844.

a plurality of only 659 votes.[71] In the three municipalities of New Orleans, comprising thirteen wards, Clay polled a majority of 414 votes.[72] The story of how John Slidell encompassed the defeat of the Clay electors has been told more than once.[73] That astute leader chartered two steamboats, the "Agnes" and the "Planter", which conveyed a crowd from the city to Plaquemines parish, where their ballots were deposited and counted. The results were amazing. The Democratic vote was increased from 310 in 1843 to 1,007 in 1844; but the Whig increase was one lone vote, from 36 to 37! And this too before the fertile brains of the politicians had conceived the device of "dummy candidates". Ten years were to elapse before the Democrats could muster one-half as many votes as were counted in the parish in 1844. The *Bee* declared the Plaquemines frauds were enough to make any patriot shudder with their enormity, and that the Whigs had been defeated by the alien vote of the city. It quoted approvingly the *Tropic* that all natives or foreigners, with political rights under the constitution or laws, should have these rights preserved inviolate.[74] The alleged frauds had their repercussion both in the local legislature and in the halls of Congress. In the lower House of the State, five members with James Perkins as chairman, investigated the alleged frauds for about a month. In the United States Senate Barrow declared the resolutions of the Louisiana legislature favorable to annexation did not necessarily represent the will of the people "because he knew full well that the election had been carried by the most infamous frauds . . ., however it might have been in other states—in the State of Louisiana at least Mr. Clay was cheated—villanously cheated out of the electoral vote of the State". The day following—February 5, 1845—Slidell in the House admitted there were doubtless some frauds in so hotly contested an election, but insisted the Whigs were the chief offenders. It was his solemn and deliberate conviction that nine-tenths of all election frauds that had ever been perpetrated in that State, were of Whig origin and in favor of the Whig candidates.[75] And there

[71] *Ibid.*, Nov. 26, 1844. The Democratic plurality has also been given as 684 and 699. Cf. Edward Stanwood, *A History of the Presidency*, 223.224; Greer, *op. cit.*, 406-407.

[72] *Bee*, Oct. 22, 1844. According to the *Baton Rouge Gazette*, Nov. 9, 1844, the struggle was one unparalled for its fierceness—one in which the Locos "displayed more activity and intensity of zeal and ceaseless vigilance than have ever characterized them".

[73] George P. Garrison, *Westward Extension*, 139; Greer, *op. cit.*, 408-408; Louis M. Sears, *John Slidell*, 39-40.

[74] Issues of Nov. 23, 30, 1844; *Baton Rouge Gazette*, Nov. 16, 30, 1844. This journal demanded a revision of the election laws. For an account of the foreign invasion of Louisiana during these years, see Overdyke, *op. cit.*, 587.

[75] Greer, *op. cit.*, 408.

the matter rested so far as any official investigation of the election results was concerned.

Election Aftermath

After the sting of defeat had worn away, the result of the election, so far as that involved the issue of annexation, was cheerfully accepted by the *Bee*. The editor was of the opinion that the Texas question constituted one of the most prominent issues during the recent campaign. In the South, Middle States, and a portion of the West, it was almost exclusively urged upon the people. Great and fundamental issues between the two parties were nearly entirely overlooked in anxiety to press home an issue which, from its connection with the slavery issue and other topics peculiarly momentous to the South, it was believed would materially influence the result. The question had operated more powerfully than was anticipated by the Whigs, and was responsible for the loss of Georgia and Mississippi. So far as the South and Southwest were concerned, the issue of annexation had been strongly and boldly maintained. The question had entered largely into the campaign in all sections, being universally reprobated by the Whigs, and very generally sustained and defended by the Locos.

It was the belief of the *Bee* that Van Buren's letter on annexation had sealed his doom.

The question would now be regarded as being settled by the will of the nation, and the project would be received with additional ardor. The only way annexation could be achieved would be by joint resolution.[76]

The election had not resulted as the *Picayune* could have wished or as it had expected. It had been a hard row to hoe to keep out of the conflict. However the editor had no intention of going to Texas or Oregon, but would stick to No. 72, Camp Street.[77]

Being a question of vital importance to the South and Southwest, the *New Orleans Republican* believed that annexation had been emphatically the question before the people, and that in the election of Polk the verdict of the voters had been recorded in

[76] Issues of Nov. 28, Dec. 24, 1844.
[77] Issue of Nov. 17, 1844.

favor of the consummation of that measure. It would strengthen the Union, add to its resources, provide a satisfactory boundary, secure us against the machinations of English policy and English abolitionism; it would add immeasurably to the sources of wealth and prosperity; open a new and rich and promising field for the energies and capacities of Americans; and would further extend the markets of manufacturers, increase the employment of shipping and the amount of commerce. The people had seen the necessity of annexation to prevent the carrying out of British views, which would result in the destruction of our country and its institutions; they had therefore determined in favor of annexation as speedily as possible."[78]

Speaking in the Senate in January, 1845, Senator Barrow denied that the election of Polk had involved the question of annexation; rather this issue was seized upon to encompass the defeat of Clay and distribute the loaves and fishes. He protested against the Senate's abdicating its duty to deliberate and decide."[79]

The Crisis in the Senate

Dr. Justin H. Smith had given a vivid description of the scene in the Senate on February 27, 1845, on the occasion of the vote on the joint resolution for the annexation of Texas. "The spectacle", said A. V. Brown, "was sublime, and the issue to be decided was felt to be vast and momentous". Archer offered a substitute bill proposing to open negotiations for the transfer of the territory of Texas, with the assent of the people thereof, to the United States. Foster of Tennessee and Johnson of Louisiana voted affirmatively, and the result was a tie. Johnson then went over to the Democrats, and Walker's amendment was adopted in Committee of the Whole by a vote of 27 to 25. "At about 9 o'clock, by a vote of 27 to 25, the business was finished. The Senate then adjourned, and soon the guns on Capitol Hill were booming a salute".[80] It was thus the vote of a Whig senator from Louisiana that finally crowned with success the long drawn out negotiations and debates involving the issue of annexation.

The *Picayune* had expressed the fear that twenty-six senators including Barrow and Johnson, would vote against the joint reso-

[78] Quoted in the *Bee*, Nov. 30, 1844.
[79] *Baton Rouge Gazette*, Mar. 22, 1845.
[80] Smith, *op. cit.*, 345.

lution thus ensuring its defeat. As a result of its passage, the editor anticipated nothing but good upon the domestic concerns of the United States. The designs of a foreign government had been treated with fitting disdain—a sign and a token of perfect freedom from trans-Atlantic dictation. The decision was to be regarded as recognizing a power under the Constitution to guard us against foreign encroachments and hostile intrigues by a peaceful and legislative acquisition of territory. The western hemisphere should be ruled by western people. European extension should be stopped at whatever price and whatever peril. Diplomatic intrigues to bring Texas under the bonds of the most powerful sovereignty on earth for the purpose of obstructing the growth and abating the influence of the United States had come to naught. "We regard the passage of the annexation resolutions as the triumph of Republican energy over royal finesse; as the triumph of free minds over the diplomacy of foreign taskmasters".

In commenting further upon the vote in the Senate on February 27, the *Picayune* believed the principal topic employed to ferment popular excitement over annexation was the slavery question. It was an error however to suppose the slave question the principal, much less the exclusive ground upon which the proposition was sustained. Of the 27 Senators for the resolution, 13 were from the "free States", and 14 from slave States. Of 25 against it, 15 were from the free States, and 10, including Barrow, from the slave States. An analysis of the final vote showed the futility of attempting to bias the opinions of men by the threat of disunion. The thirteen Senators from the free States represented a population greater than that of the fifteen opposed by 4,631,043. The ten Senators of the slave States who were opposed, represented a population greater than that of the fourteen Senators in favor of the resolution by 806,794. The twenty-seven Senators voting for the measure represented a majority of the whole people of the United States by 3,824,249.[81]

Growing impatient at the delay of Texas in approving the offer of annexation, in April the *Picayune* declared the developments of the past few weeks proved the absolute sway of Elliott and Saligny over Jones; to them the doors of the cabinet were

[81] Issues of Mar. 7, 8, 9, 1845.

opened while closed to the public; if the people of Texas were thus to be prevented from having an opportunity to express their will, "Polk will be justified in using military force to end the tyranny of foreign dictation".[82]

The *Commercial Bulletin* held that if Texas should reject the offer of the United States, we should occupy the region as Madison had occupied West Florida.[83]

The *Baton Rouge Gazette* expressed its disapproval of the speeches of Senators Barrow and Johnson on the Texas question. Commenting upon the make-up of Polk's cabinet, it remarked that it did not contain one member of the Calhoun school of politics—a poor reward for their strenuous exertions in behalf of Polk, free trade, Texas and Oregon.[84]

Louisiana and Disunion

As is well known a strong disunionist movement existed in South Carolina during this period. But such sentiments found no more response in Louisiana in 1844 than in 1836, when the leading journals of New Orleans expressed abhorrence of such an idea. It is true the *Courier* in 1841 mentioned the plan "to erect a Southern Confederacy of States between the Roanoke and the Rio del Norte".[85] Governor Hammond of South Carolina wrote as follows in the *New Orleans Bulletin*: "If Texas be not admitted because of slave-holders, because they are not fit to belong to the Union; if the North regards slave-holders as a mere caste, and to rate their connection with the Union on mere sufferance—then the South had better leave the Union, or vindicate its dignity and equality by insisting Texas shall be admitted". Whereupon the *Picayune* commented as follows: "This is the true way to talk to abolitionists, but it will not be at all necessary to agitate union

[82] Issue of Apr. 23, 1845.

[83] Smith, *op. cit.*, 443.

[84] Issue of Mar. 29, 1845.

[85] Smith, *op. cit.*, 211. The *Morning Herald*, a Whig journal in its issue of June 28, 1844, sounded a disunionist note: "The southern portion of the American Confederacy, South Carolina included, yield to none in their devotion to this Union—but the *Intelligencer* and its party may be assured, that the Union is cherished only in portion as it respects our rights and secures us protection from aggression and insult, either foreign or domestic; and that if we are driven to the dreadful alternative of disunion, let the consequences rest upon those who have oppressed and spurned us". Quoted in the *Bee*, June 29, 1844, which found the answer to such apprehensions in the "Union and Henry Clay" . . . "for the soul of us we can perceive nothing in any of the questions before the country, one and all separate or collectively, which does not appear to us in comparison with the dissolution of the Union as the merest feather weight against a mountain."

or disunion".[86] On another occasion the same journal declared it was a matter of self-preservation . . . for the South to prevent herself from being placed between two fires.[87]

The *Bee* charged the disunionists of South Carolina with making use of the annexation excitement for a treasonable purpose. In an editorial entitled "Projects of Disunion—Let the Country Beware", it was affirmed that treason was now boldly proclaimed and the dissolution of the Union presented to the Republic as a solemn issue. The fears of slave-holders were plied with exaggerated reports of northern hostility and foreign intrigue, to charge the whole Whig party with affiliating with the fanatics of the East. But South Carolina nullifiers could find no foothold in Louisiana. A united South would oppose the deep and settled determination on the part of the people of South Carolina to raise the black banner of Nullification and menace the country with disunion.[88]

Was the rejection of the treaty, asked the *Picayune*, sufficient to hazard dissolving the Union? "Are the blessings of the Union to be sacrificed by ignorant abolitionists or hot-headed nullifiers"? These were dreaming of abstractions. It was a gloomy and fanatical spirit which would destroy one of the social institutions of a portion of our country and prevent the extensions of the boundaries of the Republic. Neither question was of such moment as to justify a whisper of disunion. Abolitionism was the most fruitful source of disunion talk. In the main public sentiment at the North on this subject was as true as could be desired. A small circle of ignorant, prejudiced abolitionists were the most dangerous enemies of the Union by far than were the Carolinians.[89]

Conclusion

The main results of this paper may be briefly summarized. As a result of economic conditions, the issue of annexation in Louisiana was subordinated to the desire on the part of the Whig planters for a protective tariff upon sugar. In their minds this and other issues associated with the Whig party transcended the

[86] Issue of Apr. 13, 1844.
[87] Quoting the *Southern Literary Messenger*, June, 1844.
[88] Issues of June 18, 29, Aug. 2, Sept. 1, 1844.
[89] Issue of Aug. 9, 1844.

importance of the Texas question. The most pronounced southern opponent of annexation was Alexander Barrow, who feared the effect of the acquisition of Texas upon the economic interests of his own state. So far as the election of 1844 is concerned, no conclusion can be drawn from the result as a gauge of public opinion in regard to annexation; for aside from the fact that other issues were involved, it is clear that the state was carried for Polk by the "Plaquemines frauds." Yet after the excitement and the disappointment incident to the outcome of the election on the part of the Whigs had passed away, their journals accepted complacently the results of an election that was interpreted as a mandate on the part of the voters that the republic of Texas should be incorporated into the Federal Union. And it was the deciding vote of a Whig senator from Louisiana that made possible this result.

THE PONTALBA BUILDINGS

By JOHN S. KENDALL

There is no place in New Orleans more charming on a sunny afternoon in Spring than Jackson Square. In late February or early March—for springtime comes early down this way—the place is apt to be vocal with birds and the whispering of little breezes among the leaves. The high ornamental fence that encloses the pretty lawns and low, umbrageous trees is not the least inhospitable. On the contrary, the narrow iron gateways between the elaborate pierced-iron lamp-standards sag open in a most enticing way. He must have an obdurate spirit indeed who can, on such a day as I imagine, pass unresponsive by the invitation of those entrances. Even the angular bronze Jackson prancing eternally on his queer hobby-horse of a war-charger atop of the granite pedestal in the center of the square greets you with a magnificent, welcome flourish of his chapeau.

Here and there, beside the curving paved walks, are green-painted benches of narrow iron lath. On them one may sit rather precariously for a little time to look at the pretty scene and dream of the great events which have taken place here. The spot remains strangely still in spite of the raucous tootings of locomotives on the not-distant margin of the Mississippi where are big steel freight-sheds, heaped with spicy cargoes from all quarters of the world; or the bellowing of whistles of steamships making a landing scarcely more than a stone's throw away; or the nearer cries of hucksters perambulating the old streets in the vicinity with wagons laden with golden bananas or even more golden oranges. These sounds seem somehow merely to intensify the sweet silence brooding over the old square.

Jackson Square has a quality which one finds but rarely in America, yet which is peculiar to all really venerable historical places. It has a mystery of its own into which nothing contemporary can intrude, which envelops the visitor the moment he sets foot within the charmed precincts, and which shields him ef-

fectively from any onslaught but that of memory. So much has happened here; so many men and women have walked these paths or lingered among these flowery trees—have told here their loves in the soft moonlight of tropic nights, or taken a red vengeance in the dewey hour of dawn! Life has been lived with such tragic intensity that it has left an impress here, even after the lapse of centuries. One has the curious sensation often experienced in places as significant as this that the ground underfoot is saturated with the joy and the pain of the past and exhales a magical, impalpable incense of lost emotion under the pressure of the most careless of passing feet.

Where there is so much to remember, how shall one select the few episodes for which we have space in this brief chapter? To begin at the beginning and set all down decently and in order would be to write the whole history of New Orleans. Moreover, I want to speak here chiefly but of one person, that woman whose picturesque personality is perhaps, of all that Jackson Square has known, the one who remains most positively impressed upon it. Micaela Almonester she was—Madam la Baronne de Pontalba, as New Orleans later learned to call her—with that fine relish for the title which has always flavored our democracy with the alien charm of aristocracy and Europe. What Jackson Square is today is due to her more than to anybody else and we have repaid that debt by entwining about her name the flowers of an immortal romance, a love-story for which there is probably no foundation, yet which will keep her memory bright long after nobler spirits than hers shall have been forgotten in the dust.

Jackson Square had a long history before it knew the touch of her transforming hand. If you examine a map of French or Spanish New Orleans you will see that the most conspicuous feature of the city as there delineated is a square of ground on the river front, exactly midway between the upper and lower boundaries of the Vieux Carré. It was originally called the Place d'Armes and was intended as a parade-ground for the local military organizations and incidentally as a sort of park for the civil population. As such, it became the chief center of the community life. Here were received the "filles á la cassette,"—the "casket" girls who came to Louisiana in the winter of 1727-28 to become the wives of the home-sick colonists. Here occurred the various assemblies

of regular and volunteer troops held preliminary to the departure of the expeditions against the Natchez, Yazoo, Choctaw, and Chickasaw Indians between the years 1729 and 1739; here the Acadian exiles driven from their homes by the British in 1765 were welcomed to Louisiana. Here, too, took place the three capital incidents in the annals of the city, the three transfers by which the Province of Louisiana became successively, Spanish, for the second time French, and then finally and irrevocably American.

The Place d'Armes came into existence about the year 1720 when Bienville's engineer, Pauger, laid out the future metropolis. Probably guided by the orders of his chief, he marked out the limits of the square and selected the sites on which the official and religious buildings were erected which stood for so long on the land immediately adjacent to it. We can imagine what New Orleans was like at that time for only two years later when Père Charlevoix visited the spot, he found a mere struggling encampment of about two hundred persons habiting in huts on the bank of the river. If at that time the prospect was dismal, it must have been even more so at an earlier date. The Place d'Armes was then scarcely more than a name—a bare plot of boggy, weed-encumbered open ground.

By 1728 its appearance had undergone some trifling alterations. In shape and size it was much what it is today except that there were no sidewalks around it. Two diagonal paths crossed its expanse of coarse grass. In six years the city had not developed much even around this spot. To the rear on the site of the present Cathedral stood the Parish Church, a brick building of insignificant appearance. It was flanked on the right by a guardhouse and jail of the same substantial material and on the left by a wooden structure, the presbytère, where resided the Capuchin fathers who cared for the spiritual needs of the vast territory extending all the way from the Illinois to the mouth of the Mississippi. On the southern or up-town side lay the so-called "government" buildings, and in a corresponding position on the other side but facing towards the river, the headquarters of the government employees overlooked the barren little square. Elsewhere the ground abutting upon the Place d'Armes was occupied, if at all, by piles of cordwood, heaps of entrenching tools, or scattered pieces of artillery.

From this humble beginning the Place d'Armes of a century later was a notable evolution. We have a fairly complete description of its appearance in 1828. A few years before that date an ornamental wooden fence with gates flanked by elaborately carved wooden cannon had been thrown around the Square. This was now replaced by a tall iron railing similar to, but of course much less ornate than the one there now. This stood on a granite coping, doubtless the one which still does duty there today. Just within the fence ran a triple line of sycamore trees, in the shade of which we may be sure the grass grew sparsely. Elsewhere except for the pathways worn by pedestrians hurrying across the Place d'Armes to the market, the government offices or the various ecclesiastical buildings, the thick, matted grass grew undisturbed. The Parish Church had given way to a Cathedral more or less of the form which it has today. On the site of the old guardhouse and prison had been created the stately Cabildo with which we are all familiar and a structure similar in size and architecture had replaced the home of the Capuchin monks. Towards the Mississippi the view was unobstructed save for the low huts thrown up at the water's edge where oysters might be bought. The luggers which brought sea-food to the city tied up to posts just beyond. With their sturdy masts and lateen sails they must have added a distinctly picturesque element to the quaint picture.

From the river to the Rue de la Principal, as Chartres street was called when it ran in front of the Cabildo and Cathedral, ran rows of two-story structures built in the "briquetté entre poteaux" style, a sort of half-timbered work of cypress stakes and brick set in oyster shell mortar hard as cement. The only external adornments of these houses were their small iron balconies projecting over the sidewalk on the second-floor level. They were occupied below by various kinds of businesses, and above as residences. These businesses included the shop of the ingenuous watchmaker, Labarre, who made for the Cathedral a clock that ran a whole year without rewinding; a hardware-store; a restaurant; and a barber- shop; but most of the space was given up to Austrian and Slavonian fruit dealers—then, as now, the city's chief traffickers in that kind of goods. At the corner of St. Ann and Chartres was the popular Café del Aguila where, in addition to the strong drink so assiduously imbiled in New Orleans in those days, one might have hot coffee, tea or chocolate served at little marble-

topped tables which at other times were used for interminable games of dominoes, quite in the style of small towns in France and Spain.

Across the street was a low building roofed with Spanish tile, another cafe, though somewhat less elegant than its rival over the way. Here Benito Durán dispensed the fiery wine of his native Mallorca to customers, many of whom were his fellow-countrymen. Among them doubtless was that fisherman, Farragut, whose son was afterwards admiral of the United States navy and as such received the surrender of New Orleans in 1862. Finally, we imagine the vicinity of the Place d'Armes frequented by a curiously motley population: Greek ice-cream vendors in tasseled fezzes; Choctaw Indians reeling drunk on Sunday afternoons, naked save perhaps for a loin-cloth or a ragged blanket; mulatresses in gaudy *tignons* selling ginger beer from large tubs lined up against the aforesaid fence; children in stiffly starched piqué; elderly gentlemen in lawn neckties and ruffles; detachments of the City Guard with white cross-belts and brass-hilted cutlasses; young elegants in nankeen pantaloons strapped tightly under their varnished boots; ladies in capacious skirts of gaily-figured calico—all these coming and going in the bright New Orleans sunshine made up a picture more brilliant and attractive than could have been seen at that time anywhere else in North America.

For nearly a century and a half this old pleasure-ground, whether under the name of Place d'Armes or of Jackson Square, has been a monument to the related families of Almonester and Pontalba. In the later years of the eighteenth and the early ones of the nineteenth century, it was virtually surrounded by buildings erected by Don Andrés Almonester, the founder of the dynasty. Its most conspicuous ornament was the Cathedral which he had erected and presented to the Chapter in 1792, and beside it stood the City Hall or Cabildo. On the other side Don Andrés had constructed a fine brick building for the Capuchins to take the place of their old wooden residence. The two rows of "brick and stake" two-story buildings which extended along St. Peter and St. Ann streets from the Rue du Principal to the river were his also. In all these works he had utilized the labor of his numerous slaves and the material prepared at his own brick yard in the outskirts of the city.

Don Andrés was a figure of great importance in colonial New Orleans and his story is well worth telling. It is typical of many such lived out at that time and in that place. He came to New Orleans from Spain in 1769 in the suite of "Bloody" O'Reilly. He was then forty-four years of age. We know nothing of his earlier history save that he was born at Mayrena, in Andalucia, in 1725. He must have been well-connected and influential for O'Reilly made him "Alférez Real" in the new government which he set up in New Orleans. While this was an honorary office with no duty but to carry the royal standard in public ceremonies, it gave the holder a seat in the Cabildo and in that way a share in the government of the whole vast Province of Louisiana. A little later Almonester became a notary public which was a profitable post as well as an honorable one. He was also a colonel of colonial militia and according to his relative, the gossipping Pontalba, had ambitions of becoming a brigadier though he never seemed to have done any fighting and could have desired military titles only for the gratification of his not inconsiderable vanity.

It is not known just how he laid the foundations of his fortune and perhaps the less said about that the better. There was some suspicion on the subject in New Orleans in Almonester's own lifetime, though nobody was temerarious enough to try to do anything about it. However, we may conclude that he was not mixed up in the local government for nothing and that, as the Spaniards say, he knew how to make one hand wash the other. Just how he acquired the property on St. Peter and St. Ann streets overlooking the Place d'Armes, for instance, is unknown. This land belonged originally to the crown and had not been built upon when in 1770 O'Reilly, in the name of the king of Spain, transferred it to the municipality. Apparently it was still vacant when Almonester built on it. In all probability the great fire of 1788 had swept all the adjacent regions of the city bare of buildings. At any rate he managed to accumulate much real estate and at the time of his death in 1798, was probably the largest land-owner in the city.

I like to think of Don Andrés as he is pictured in the old painting that hangs in the Cabildo today. The artist shows him a consequential, middle-aged individual, pear-shaped as to body and somewhat spindling as to shank, but clad in a fine, much embroidered coat, white waistcoat and small clothes, and white stockings,

with his right hand thrust impressively into the ruffles of his shirt. There he stands looking exactly like the rich, old, pompous, self-satisfied colonial magnate that I do not doubt he was. When that picture was painted his wealth was estimated at a million dollars. That sum represented several times as much in those days as it does today. But Almonester was not the wealthiest man in Louisiana, as has been frequently said. Those who so describe him forget the gorgeous Philippe de Marigny with his numberless slaves and his seven million dollars, who could afford to lose a whole street of houses at the game of "craps," as fascinating in those days as now, and who named another street, Bagatelle, after another card game at which he also lost huge sums. He was the real plutocrat of his period, not in New Orleans only, but in all North America.

In the Cabildo portrait Don Andrés is painted with the cross of the order of Charles III glittering upon his chest. The King of Spain conferred it in 1796 in recognition of Don Andrés' gift of the Cathedral to the city. There was a wonderful ceremony in New Orleans on the day when the new knight was solemnly inducted into the order, the "royal and distinguished" order as it is called in the long and flowery inscription so soon to be cut on its wearer's tombstone in front of the altar of that very structure which owed its existence to his well judged munificence, Almonester was enveloped in the great robes of the order, the train carried by three servitors clad in red. There was an impressive service at the church and then an immense crowd followed him as he went along St. Peter street to his dwelling on the corner of that ancient thoroughfare and what was then the riverbank. Dressed in all that finery the old gentleman took up his station at the door of his drawingroom and affectionately kissed on both cheeks the more than three hundred who cared to approach and greet him. At eight o'clock that evening the common people who gaped at this curious scene from the sidewalk and the Place d'Armes were delighted with a display of fireworks and the ascension of a balloon. It must have been a hilarious time for according to the old chronicler from whose pages we take these details, a "collation" was served in the Almonester mansion later in the evening at which the menu was entirely composed of sweetmeats and the guests lingered to the then unbelievably late hour of ten p. m.

When he was sixty years of age Don Andrés married a bride of sixteen. One would think that with that coldly calculating eye with which the artist has represented him in the old portrait in the Sala Capitular he might be relied on not to make an unsuitable match. It was in all but years an eminently practical and common-sense sort of union, for Louise de la Ronde, the child on which the old fellow's fancy lighted, belonged to one of the best and richest local families. She was the daughter of Pierre Denis, Marquis de la Ronde, of Versailles plantation, the historic place just below New Orleans on which a part of the battle between Andrew Jackson and the British was fought in 1815. Through her, Don Andrés was allied with the families of Pontalba, Marigny, De Lino de Chalmette, Cruzat, Brontin, and all the rest of the Creole aristocracy. In spite of her tender years Louise was, if we may believe the chronicler, already a "spoiled and petted belle." New Orleans laughed a good deal at the oddly-assorted couple but we must remember that girls married early in those days and they seemed to have gotten on famously together after all. They had two children, both daughters; one, Micaela, of whom more presently; the other, Andrea Antonio, who died in 1799 at the age of two and was buried in her father's tomb.

Don Andrés passed away in April, 1798, full of years and honors and was, according to his orders, laid to rest in the churchyard, not in the church. That honor was indeed tendered by the grateful ecclesiastics. Not till the following December did the solemn re-interment of the old millionaire take place, in front of the altar of St. Anthony of Padua under the slab which refers so handsomely to his knighthood among his other honors and virtues, benefactions and dignities. It was then that little Andrea was placed beside her parent. Don Andrés died very suddenly and there was not time for him to receive the last rites of the church. That fact worried his widow a good deal, but happily, long before when he built the church which is now the Cathedral, he stipulated that a mass should be said there every Saturday for the repose of his soul. That has been done ever since so we have no reason to doubt that he managed to get through the needle's eye and, in spite of the unfortunate circumstances of his death, is safe in Paradise.

Madame Almonester survived her husband twenty-nine years. She must have been rather a frivolous-minded lady for in 1804, after six years of widowhood, she bestowed her hand and fortune upon a "very common man" named Chatillon, then French consul in New Orleans. He was much younger than she who was in her mid-forties. In fact Governor Claiborne, referring to the wedding in one of his letters, calls her "an old widow." To show its disapproval of the levity of so elderly a person the populace gave the couple the greatest charivari every known in New Orleans. It lasted three days and not only did the noise around the Almonester residence continue unabated throughout that entire time—relays of bell-ringers and horn-blowers succeeding each other day and night—but there was a cart which paraded the streets with effigies of old Don Andrés in his coffin, his widow and her new husband. The people insisted that the newly-wedded pair give an entertainment at their home for "the genteel part of society," plus a thousand dollars to the poor. This was the price exacted for discontinuing the charivari. It is said that all told, it cost Mme. de Chatillon $3000 to comply with their demands. It is no wonder that shortly afterwards she and her husband left New Orleans for France never to return.

But this lady's daughter, Micaela, the real heroine of our story, was so far as we know never frivolous in her whole life save for one solitary moment, on her wedding day. She was playing with her dolls when called away to have her hair dressed for the ceremony. That was apparently the one time that she relaxed in all the course of her ruthless history. I am afraid that Micaela was not a very amiable person. Intelligent, yes, with a fine sense of the value of property and her own rights and a great desire to have her own way. But she had red hair, she was not pretty, and she met the accidents of a stormy life with a steely resistance which grew bolder and harder as time went on until at seventy-five years of age when the time came for her to go to her reward she was a pretty terrible old person.

She was born in New Orleans in November, 1795. She was married at sixteen as her mother had been but her husband, the young Baron Joseph Xavier Celestin Delfau de Pontalba was just twenty-one and so there was nothing to criticize as there had been in the case of her parents. She was a school-girl at the Ursu-

line Convent when the happy event took place. It is said that up to the very day of the wedding she wore her hair in the two pigtails which are customary in Creole families even now and that they were replaced by a fashionable coiffure for the first time on that occasion "because it was not seemly that a bride should have her hair hanging down her back." So it is not at all surprising that she played with her dolls that eventful morning and probably kissed them good-bye when she left for the church and never saw them again.

The family of her husband was an old and distinguished one. The Pontalbas had been prominent in Louisiana ever since 1732 when Jean Joseph Delfau de Pontalba, an officer in the French service, became commandant at Pointe Coupée, a post which he retained for years but not without scandal. Bienville and Kerlerec both had occasion to criticise the way he managed "to make his military connections help his trading enterprises." At any rate he grew rich and left a handsome patrimony in land and slaves to his son, Joseph Xavier Delfau de Pontalba.

The second Pontalba was also a soldier. He was sent to France when but four years of age and did not return till 1782 when twenty-eight years old. He then held the rank of captain in the French army but on arriving in Louisiana and finding the Spanish in control, he threw in his lot with them and was rewarded with the rank of colonel. He married Jeanne Louise Le-Breton, granddaughter of Bienville's grandnephew, Noyon. Miro, the Spanish governor, was greatly interested in the young people for he was, I believe, a relative of the bride. It would have been strange, as things went in those days, if this connection did not inure to their profit. When Pontalba returned to France in 1797, he was rich enough to buy a handsome estate for himself at Mont L'Eveque in the Department of Oise, where he had the finest gardens in France.

Micaela's husband was the son of this Pontalba. He had been finely educated in Europe but Nature had not been very kind to him. He was goodlooking and had exquisite manners but nobody could say that he was intellectually a prodigy. He was particularly unhappy in money matters. When a mere lad he had been page to the Emperor Napoleon and he was raised to be a soldier. He served for a time in a regiment of Chasseurs commanded by

Marshal Ney whose wife was a connection of the Pontalbas. In fact he had leave of only six months when he went to New Orleans to marry his cousin and had to hurry back with his child-wife in order to resume his duties in the army. He and Micaela had never seen each other up to that moment. All the details of the courtship, if it may be called such, had been handled by the respective families by correspondence. That of course did not necessarily mean that the marriage would turn out badly for many such arrangements have resulted most happily. But where you complicate the situation with a "soft and pretty numbskull" entirely under the control of his parents and a young girl of truly masculine energy and strength of will, the lack of romantic affection is almost sure to cause trouble.

Micaela had two gay, bright years in Paris. Then when the Napoleonic epic came to its bloody close, her husband resigned from the army and retired to Mont L'Éveque, which his father, the old Baron Joseph, presented to the young couple. He purchased for himself a fine new house at Senlis. Quarrels between Micaela and her husband over money matters began even before they settled at Mont L'Éveque and about 1821, after the birth of her third child, these differences came to a sudden and terrible climax.

Under the French law a wife's fortune passes at marriage to the husband. As Micaela was not the kind of person to be easily dominated and young Joseph was not brave or clever enough to assert himself, this convenient provision of the law was pretty much of a dead-letter insofar as old Don Andrés' millions were concerned. However, old Baron Joseph, the father, felt that this strong-minded American daughter-in-law of his had to be curbed. It appeared that the Pontalba escutcheon was in some need of refurbishment and in one of her letters Micaela complained bitterly that her father's money had been used to regild it. When the young girl brought a splendid equipage to Mont L'Éveque and tried to beguile her life in the country which she detested by building a theater in the grounds and giving sumptuous entertainments, it must have looked to old Baron Joseph as though a good deal of money was being wasted which ought to be used in other more permanent ways. We can imagine that he said this and we can also imagine what Micaela replied. Very soon everyone in the family was on bad terms with everyone else.

In 1831 after the death of Madame de Chatillon, Micaela's mother, it was necessary for the latter to go to New Orleans to settle up the estate. This was one of the two visits which Micaela paid the city of her birth for if the truth must be told, she took very little interest in New Orleans. None of the Pontalbas did, except insofar as they derived a handsome income from their properties there. It is said that Micaela intended to sue for a divorce while she was in the United States but the French minister of foreign affairs was induced to intervene. As by her marriage she was a French citizen, she had no standing in court and this amiable program was frustrated. When she got back to Paris, however, she brought a suit for separation of bed and board from her "soft and pretty" husband. Micaela had had all she wanted of her husband's family but this suit was as far as she could go under the French law which did not then recognize divorce. Even so she could not have succeeded in getting a decree but for an indiscretion of the old baron. He published one of the speeches of counsel at the trial which contained aspersions on Micaela's character. The court very properly took the view that this was libel and thereupon granted her the separation for which she was petitioning.

While the suit was pending, however, a strange and terrible thing happened. Old Pontalba had an interview with his daughter-in-law, alone, in a remote apartment of his great house. Suddenly shots rang out and when an alarmed household burst into the room they found across the threshold the bleeding, unconscious body of Micaela, wounded repeatedly while bolt upright in a high-backed arm-chair sat the old baron, stone dead, with a bullet through his head and a smoking pistol still grasped in his right hand.

The news reached New Orleans first in the form of a private letter, from which the *Bee* published a brief extract. But this gave no details of the tragedy. On January 5, 1835, the same newspaper furnished what it described as "a new version of the details," taken from a French journal "of recent date:"

> A bloody tragedy has just appaled the town of Senlis and its vicinity, and already the circles of society in the capital are saddened by the report of this event. The old count of Pontalba, aged eighty-one, has just wounded with two pistol shots fired point-blank at the Countess de Pontalba, his daughter-in-law, and then shot himself with the

same weapon which had served him in committing the assault. As a result of domestic difficulties which had inspired a strong feeling of resentment the old gentleman was irritated to where there was raised in him to a degree the sentiment of honor. He was opposed to all reconciliation between his son and the woman whom he made his victim, and it was because he considered that his authority had been put to scorn that he has been incited to this act of furious vengeance.

It is said that the younger Count de Pontalba has behaved on this occasion with a good deal of circumspection. The countess has not perished as a result of the wounds, which included four balls; her hand, instinctively lifted to her heart, received part of the discharge, but her life is in no danger. Monsieur the Count de Pontalba, wealthy to the degree of having a million in income, has left a will, in which is found a legacy of five thousand francs in income for the favor of the commune.

Four days later the *Bee* was able to supply what it regarded as a fuller and more authentic version of the melancholy affair:

M. de Pontalba, senior, feeling himself indisposed, called his son and telling him that he had but a few days longer to live, he desired before his death to be reconciled with his daughter-in-law, and that he begged, in consequence, that he would make known to her his intentions. M. de Pontalba, junior, yielding to the wishes of his father, acquainted his wife with the good resolutions of the old gentleman and arranged with her to return after him. At this good news the invalid immediately left Paris and went to Mont L'Éveque.

In order to give solemnity to this reconciliation M. de Pontalba begged his son to go in search of a priest, which he immediately did; at the end of some moments M. de Pontalba sent word to his daughter-in-law that he wanted her to come to his chamber. The old man, on seeing her enter said to her, "Unhappy woman, you are going to die!" At the same time he fired at her a pistol loaded with four balls, and she fell senseless. M. de Pontalba, passing to an adjoining apartment, blew out his own brains.

Three of the bullets have been extracted from the breast of Mme. de Pontalba, and it is regarded as useless to attempt to remove the fourth. Such are the points which we have been able to secure regarding this unhappy affair.

That was the official version. The Parisian officials were content to let the matter rest at that point. New Orleans did like-

wise. Perhaps it would be just as well for us to leave the tragedy enveloped in the haze of half-truths and inconsistencies with which well meaning persons have surrounded it. But after all, Madame de Pontalba is a historical character and what would be proper in the case of a private person is hardly appropriate with one who bulks so large in the annals of a great city. Moreover, a century has elapsed since that fateful day at Mont L'Éveque and those whose feelings might be hurt by a plain statement of the facts have long since passed to their reward. There can be no harm now in revealing just what led up to the tradegy.

Judge Charles Gayarré, the historian, who was an intimate friend of the family was in a position to know the truth about it. So, too, was Madame Rost, who was a relative of the Pontalbas. She and Gayarré exchanged confidences, each supplementing what the other had to say on the subject. Some years later in an expansive moment the old man put the result of their combined observations and recollections in the form of a statement to a literary acquaintance who in turn wrote the story down in a notebook. There it lay until recently when a transcript of the record came into the hands of the present writer. This is the narrative which follows, reproduced textually, with all of its verbal infelicities just as it was hurriedly scribbled off with no idea that it would ever find its way into print.

Gayarré's statement opens with a short history of the Almonester fortune, the origins of which he finds it difficult to explain unless as he says, it was the result of "a miracle." Then he describes Micaela's wedding, much in the manner we have done, save for one particular—the Judge confirms the legend that in spite of her tender years she had already given her heart "to a young man residing in New Orleans," and was presumably grieved and disappointed when parental interference put an end to this precocious romance. Whether this episode had anything to do with her subsequent behavior we cannot say. Gayarré, like a conscientious historian, ventures no conjecture on the matter but we may suppose that a hot tempered, red-headed, imperious young person with a great deal of money and an aching heart was hardly prepared to make an outstanding success of her marriage. At any rate, after those first two gay years in Paris, affairs began to go badly with M. le Baron and Madame la Baronne. At first it

was money, then it was Madame's associates and at last, one night at the Opera House as Micaela swept regally into her box, her husband who was mingling with the crowd in the aisles below overheard a remark which he regarded as derogatory to his wife . . . but let Gayarré continue the story in his own words:

> The speaker at once felt himself tapped on the shoulder. Turning, he found himself face to face with an elegantly attired and obviously indignant stranger.
>
> "By what right, sir," demanded the latter, "do you say what you have just said?"
>
> "By what right do you ask?"
>
> "I am M. de Pontalba."
>
> "I am exceedingly sorry, sir, that you overheard my remark. Had I known—I was unaware—in short—what shall I say?"
>
> A duel followed. That perhaps was inevitable under the circumstances. Unhappily M. de Pontalba was not as good a shot as his adversary. He lost a finger in the encounter and did not succeed in inflicting so much as a scratch upon the individual whom he had challenged. This fact did not by any means soothe his feelings.
>
> The upshot of the affair was a bitter quarrel between husband and wife. They decided to separate. The custody of the eldest boy was awarded to M. de Pontalba; the rest of the children—by this time there were several—remained with their mother. This arrangement did not please the imperious Micaela. She stole away the eldest boy from the educational institution in which his father and grandfather had placed him. The boy, however, proved a source of little satisfaction to his mother and finally, displeased with his behavior, she addressed a communication to his father stating the facts and begging to be relieved of the responsibilities which she had rashly assumed in the premises.
>
> She was categorically refused. Had she not interfered with the plans that had been made for the protection and education of the lad? Well, she could have her own way. Neither of the Pontalbas was prepared to do anything to extricate her from the predicament in which her ill considered act had landed her.
>
> The establishment at Mont L'Éveque where the old baron made his home consisted of two buildings, the "Grand Chateau" and the "Petite Chateau," surrounded by an extensive park covering fully two hundred acres, all enclosed with a stout wall. The old Baron had rooms in a tower connected with the "Grand Chateau."

On the evening in which we are especially interested, Madame Soniat, a visitor from New Orleans, was staying at Mont L'Éveque. It is to this fact that we owe our knowledge of the detail of the great scandal which rocked Paris and New Orleans. On the evening in question the hosts and their guests were all assembled in the drawing rooms, when a carriage was heard to drive through the grounds. A moment afterwards a servant showed himself at the door of the drawing room and announced "Madame de Pontalba!"

The old Baron fell into a rage at the sound of her name. He jumped from his chair and furiously commanded that she should not be received—that her carriage be directed to return by the road it had come. The ladies, shocked at the explosion, came together in a group and after some whispering, one of them advanced and addressed the old Baron.

"M. le Baron, we have no right and no desire to interfere in your family affairs. We are your friends, and do not wish to take part in any differences that may have occurred to distress you. But Madame de Pontalba is a lady. She is travelling alone. She cannot be ordered thus, out again into the high road to pass the night without shelter and protection. Should your order be executed, therefore, we warn you that we will order our carriages immediately and leave your chateau."

The old man stopped short in his rage and after a few moments' consideration, gave orders that Madame de Pontalba be assigned to the Petit Chateau to pass the night and directed to leave Mont L'Éveque early the next morning.

The next morning, while all were assembled at breakfast, M. le Pontalba pouring out a glass of milk and placing it on a silver tray, sent it over to le Petit Chateau to Madame de Pontalba with his compliments and the message that "he remembered that she always took a glass of fresh milk every morning."

The old Baron sat at his place at the table silent but inwardly fuming. In a few moments he rose, left the room and returning passed through it buttoned up in his great coat. It seemed too ordinary an occurrence to notice, and no one paid attention to him.

But in the midst of the chat and conservation that followed his exit, broke the most frantic appeals and cries: "Help! Help! Murder! Murder!"

The cries came from le Petit Chateau. All rushed over there. The door of Dadame de Pontalba's apartment was open. She was found on the floor apparently dead and

weltering in her blood. The first thought was that she had committed suicide. Signs of life were discovered and she was brought to consciousness and in answer to pressing inquiries related that M. de Baron had entered her room and locked the door, leaving the key in the next room. Thinking that he had come to talk about the matter of her son, she rose to receive him.

His face was stern and angry. "Madame, I give you five minutes to reconcile yourself with your creator. I am going to kill you!" Not at all frightened, not even impressed, she answered lightly: "Oh! M. le Baron, do not let us have any tragic crisis! Why all this ceremony?"

He threw open his coat and displayed four pistols in his belt. Taking two, he aimed at her and fired. Instinctively she raised her hands to protect herself; her hands were mutilated and riddled with bullets, two of her fingers shot away; the balls entered her body. She rushed to the door and with her bleeding, shattered hands tried to open it, screaming for help.

He caught her by the shoulders, wheeled her around and taking his two fresh pistols, fired them at her. She fell unconscious.

With terrified face her husband listened to her and raising his hands in despair rushed from the room in search of his father, the men following him, no less terrified than he, at the vision [of the gillotine] and murder trial.

They flew to the Tower to the Baron's room. The door was bolted on the inside. While they were trying with blows to force the heavy oaken windows, they heard a tremendous shot inside. The door was battered down. The Baron sat in his great carved arm chair, dead! The son fell on his knees, lifted up his hands exclaiming in fervant tones: "My God! I thank Thee! My God, I thank Thee!"

By a miracle Madame de Pontalba recovered and lived for years afterwards with all the bullets in her body.

Her husband who was never very strong, fell into complete aberration after his father's tragic death. His wife hired apartments for him and attendants and provided liberally for his maintenance. . . .

After some years M. de Pontalba recovered his mind. He and his wife were in a way reconciled but they never lived together again in spite of Madame Rost's assertion that once when she dined with them they behaved "like turtle doves." One suspects that the old Baron was not too sound in the head either. Perhaps age

had muddled his intelligence. Possibly, money troubles and the stubborn refusal of his daughter-in-law to sacrifice her fortune for the family got on his mind and then when the additional causes of distress arose which Judge Gayarré has described and which Miss Grace King has so deftly obscured in her published pages on the Pontalba affair, his wits gave way. For some years before the tragedy he had lived a very retired life at Mont L'Éveque busy with his books and rarely having intercourse with the outside world. Doubtless his thoughts turned often to New Orleans and the days of his youth for in his will there was a paragraph making a bequest to the municipality of a square of ground in front of the old Place d'Armes which we know today as Jackson Square.

There was also another provision in the old nobleman's will which had interest for New Orleans, less direct than the legacy just mentioned but intriguing, nevertheless. The *Bee* referred to it shortly after the date of Pontalba's death:

> By his will he bequeathes the whole of his property in this city, valued at one hundred thousand francs—to the corporation of Mont L'Éveque, where he resided, on condition that the corporation shall erect a college for the education of sixty young girls, twenty of whom are to selected from Mont L'Éveque, twenty from Senlis and twenty from New Orleans. But Mr. Pontalba, the son, reserves the usufruct of the property during his lifetime. This the municipalities of Mont L'Éveque and of Senlis wish to purchase, with the concurrence of the corporation of this city, that they may the more immediately enjoy the benefit of this legacy.

And the *Bee* availing itself of the editorial privilege of instructing the city fathers as to the course they should pursue, adds:

> It can scarcely be necessary to impress upon the minds of the members of the municipal council the propriety and utility of concurring in the proposal as soon as possibly convenient and of selecting as objects of this bounty those who are destitute and meritorious.

One would like to be able to add that the newspaper's advice was heeded but there the record stops. We do not know whether the "college" was ever erected or that the twenty meritorious and destitute young ladies ever were chosen from New Orleans to go

to France. Apparently the legacy was forgotten on both sides of the Atlantic and the tardy benefaction of the old Baron to the city of his youth came to naught.

We have Gayarré's testimony to one other curious fact regarding the Mont L'Éveque tragedy. Although as we have said, Micaela recovered and was as gay and animated and interesting as ever, there were times when she suffered strange and startling attacks, which should probably be attributed to the effects of the bullet left in her lung. On one occasion when she was to be hostess at a ball, she invited Gayarré to dine with her on the evening of the entertainment. There was to be a stately banquet followed by a concert of an Italian opera company and then the formal entertainment would begin. While she was deep in conversation with her witty and eloquent guest who was seated at her side at the head of the richly decorated table, she suddenly fixed her eyes upon him in an expression of abject terror, gave a ghastly shriek and fell insensible to the floor. Instantly all was excitement. Her sons tranquilized the guests with the statement that the attack was not unusual and meant nothing serious. They bore the unconscious lady away to an adjoining apartment where she soon recovered and returning to the banquetting hall, resumed her place and the conversation as though nothing had transpired to interrupt it.

One would think that after her terrible experience at Mont L'Éveque, Micaela would not care to see any of the Pontalba tribe again. But quite the contrary was the case. Although her husband in his precarious mental condition had to be kept in a separate establishment, he was not so much an invalid as to preclude his visiting her home from time to time. They were apparently on fairly good terms. When relatives from Louisiana were guests at the great residence in the Rue St. Honoré, not infrequently he was among those asked to meet them. It is said that she would appeal to him from time to time in the course of the conversation and then, before he could reply, silence him with a contemptuous, "Ah, but what's the use? You are a great booby!" In spite of their legal separation there were often documents which both he and she had to sign and on such occasions the poor fellow obeyed her imperious behests to the letter. One cannot help feeling sorry for the "soft and pretty" baron. Nevertheless, one must confess that Micaela had some provocation in the matter.

She lived in great state in Paris. They called her the "Old Creole Baroness" in the Faubourg St. Germain where she had her residence. She bought the great mansion there built by Louis XIV for the Duke de Maine. It had four hundred rooms and was too vast and expensive even for the resources of an Almonester. After living in it for a short time she pulled it down and used its magnificent fittings to equip a new mansion in the Rue St. Honoré. This, too, was a superb place, or so we may infer from the fact that it was sold long afterwards to one of the Rothschilds for 5,000,000 francs. The house had a long series of splendid apartments. Guests were received at the door by footmen in livery of black silk and conducted with great ceremony to the distant spot where Micaela, now an eagle-eyed old lady, sat enthroned on a high-backed chair.

She always managed her affairs in her own imperious way. She was a terror to her lawyers. When their bills came in the old Baroness never failed to dispute them furiously. She had no fear of lawsuits and resisted energetically any demand which she regarded as unreasonable whether it came up in Paris where she owned much real estate or in New Orleans where she was for many years the largest single tax-payer. Her agents in the latter city were always held to strict account even though she herself saw them rarely and had to handle her affairs across the seas by correspondence. She frequently changed her representatives, legal as well as otherwise, sometimes with cause but most often without.

She took a great interest in politics. At one time she was prominent in the Legitimist party. Her relations with the elder branch of the Bourbons were such that she deemed it wise to leave France for a time when the revolution broke out which dethroned Charles X. She returned after the installation of Louis Philippe as king. She was on good terms with Louis Napoleon but kept aloof from the Republic. When Thiers and MacMahon came along she was growing old and her indomitable spirit was beginning to lose its fire. She always distinguished in her political views between Europe and America. "I have two sets of political beliefs," she said. There, her interests were all with monarchy, while here, she was a militant Democrat. "Don't talk Democracy to my son," she remonstrated once with an American visitor, "he

is a Frenchman and Frenchmen are no more prepared for Democracy than so many monkeys. Talk Democracy to me for I am a Jackson Democrat." When she was in New Orleans, on her second and last visit, she remarked one day, "I wear my coronet in Paris, I do not need it here!" In fact, one wonders if this headstrong, imperious old woman did not, in the bottom of her heart, feel herself far more American than French even if she did remain in Paris down to the very end of her long life.

She had three sons—Joseph Celestin, born in Paris in 1815, and Alfred Celestin and Gaston Celestin who were born at Senlis. The third son was a man of talent. He had an excellent voice, was both sculptor and painter and was remarkably skilled with the pencil. A collection of his drawings was lithographed and published in Paris. It is said that she treated them all like babies, even when they were quite well-grown. The eldest son succeeded to the title on the death of his father in 1878 but his line is now extinct. It is from one of the cadet lines that the present Baron de Pontalba descends.

Madame de Pontalba paid her memorable second visit to New Orleans in 1849. It will be remembered that she was frightened at the outbreak of the revolution which drove Charles X into exile. She fled from Paris expecting never to return. In the period of disorder which seemed then beginning there was, she feared, no room for the upholders of the "ancient régime." So she made her way first to London and then to America. In a letter to her cousin, Azélie de Chalmette, written just before setting out on her long journey, she said regarding arrangements for her reception: "You will give me the little room which I occupied years ago." But she was a guest at the Chalmette mansion only a short time if at all. We find her speedily established in New Orleans in an apartment of her own and then as the weather grew warmer, seeking the pleasanter climate of Pascagoula where she rented a villa for the summer.

She brought her two younger sons with her, Celestin, the eldest, preferred to remain in Paris. In fact he came to New Orleans but once and that was many years later when a matter of business required his presence. Micaela and her two boys were naturally made much of by their hosts of relatives in the city. She seems to have enjoyed herself greatly and even as late as the win-

ter of 1850 repeated the announcement that she intended "to devote the rest of her life to the improvement and advancement of her native city." Yet in the following April she was on her way back to Paris. Louis Napoleon had made himself emperor; the regime of the "bourgeois" king was over. It seemed safe to return to Paris, particularly for one whose husband was a relative of Marshal Ney and had been a page to the Great Emperor himself. She left New Orleans on the steamboat, Belle Key, and went up the river as far as Memphis. Thence she made her way to Washington where she had a half-hour interview with President Fillmore. By August she was back in the Rue St. Honoré, never to leave France again till her death in 1874. Four years later her husband also died. He was in his ninety-seventh year. He passed away in his mansion in the Avenue Malakoff where he had made his home for many years, presumably living on an income allotted him by his wife who, so far as I know, never set foot within her husband's doors.

The name of Pontalba is remembered in New Orleans nowadays chiefly from the connection with the twin rows of stately brick buildings which line the upper and lower sides of Jackson Square. As long as they continue to keep vigil over that pretty pleasure-ground there is no danger of Micaela and her matrimonial misadventure being forgotten. They were planned and built by her during that final visit to New Orleans. They constitute her only contribution to the "improvement and advancement" of the city about which she talked so magnificently. They represent her very well in their architectural stateliness as well as in the brevity of their prosperity and the long period of eclipse which eventually overtook them and from which they are now just beginning to emerge.

In 1844 the old two-storied "brick-and-post" buildings erected by Don Andrés Almonester on St. Peter and St. Ann streets between the river and Condé street (as the lower part of Chartres was then called), were beginning to show their age. Sixty odd years had passed since they were put up and thirty years of absentee-landlordship with its attendant neglect had left them in a condition verging upon ruin. At that time New Orleans was divided into three separate municipalities. There was the keenest rivalry between municipality number one in which Jackson Square was

situated and municipality number two where there was another and perhaps prettier square called after the Marquis de Lafayette. The Americans lived around Lafayette Square which was embellished with many new and tasteful structures and they said unpleasant things about the French and their Place d'Armes and the dilapidated old edifices which surrounded that neglected civic center. There was thus a good deal of feeling about the matter. Something of this must have found its way across seas to the self-willed Micaela for in January of the following year we find her obtaining from the city council permission to erect "arcades" in front of these properties. Just what the arcades were intended to be like we do not know; possibly something on the order of those which make the Rue de Rivoli one of the most attractive thoroughfares in Paris. An architectural screen of the sort would have masked acceptably the dilapidation of the building behind and added measurably to the attractiveness of the Place d'Armes. Nevertheless Micaela, after toying with the idea for a time, abandoned it in favor of a much grander and more expensive one.

In August, 1846, the agents of Madame de Pontalba presented to the city council a letter in which she said that she had come to the conclusion that her father's buildings would have to be completely removed. "In a desire to add to the attractiveness of her native city,"—to quote her own words—she was going to substitute new and handsome structures of the style indicated upon a drawing which she enclosed. This design showed the Pontalba buildings substantially as they stand today. But she was willing to do all this only if the council would lend its co-operation. Her idea of co-operation was nothing less than exemption from taxation for twenty years from the day of the completion of the proposed edifices!

Strange to say, the council agreed to relieve her of all imposts over that long period. Just why this was done we cannot say positively but anybody experienced in the ways of city councils will be able to guess. Alas, city councils then were no less subject to temptation than they are today. Even if Micaela did not herself figure in the transaction, it must be remembered that the Pontalbas had many important connections in the city and the influence of friendship, social relationships and business ties has always been potent in legislation in New Orleans. However, the

action of the Council was not passed over in silence by those who could not benefit socially or otherwise by pleasing Micaela or her family and so loud became the criticism that in August, 1849, the objectionable privilege was revoked. The Council seized upon rather a flimsy pretext for reversing itself. Micaela, apparently with some idea of forcing its hand, notified it that, relying upon the resolution passed three years before she had contracted with the firm of Stewart & Co. to do certain work preliminary to the erection of her new buildings. Whereupon the Council, claiming that she was not complying with her part of the agreement, refused to recognize the exemption further. The impression lingered long, however, that the Pontalba buildings paid no revenues into the municipality. In October, 1850, for instance, the *Delta* newspaper, which seems to have been a sort of organ of the Pontalbas, went out of its way to state expressly that "there was no truth in the statement that Mme. de Pontalba had been exempted from taxation."

Notwithstanding the recalcitrancy of the city fathers, Micaela went forward with her plans. After she reached the city the design of the new buildings was considerably improved and enlarged. It is said that essentially the plans were hers. They must have been finished by the end of 1850 for the *Delta* of January 3, 1851, refers to their recent completion. It is said that Micaela personally superintended the work. While it is improbable that she made a practice of sitting in the towers of St. Louis Cathedral to spy on her workmen across the way as one tradition has it, it is true that on one occasion, at least, she climbed the ladders to the top of the buildings on the upper side of the Square in order to make sure that she was not being cheated in the quality of the brick that was being used. In the end they were much what one sees today—those long, red-brick structures which flank Jackson Square north and south—enormous structures each of them, yet so admirably proportioned that they do not appear too large or massive or out of keeping with their surroundings. They are still dignified and aristocratic; gay, too, with their warm, rosy coloring, which is different at every hour of the day, changing with the changing sunlight—with balconies of ornate iron made especially in France in intricate and beautiful designs which stretch across the long facades like raveled black lace upon an old fancy-dress ball costume.

In each of these two buildings there are twelve separate residences and twelve stores. The residences consist of the two upper floors and attic as well as the long wings extending to the rear along a damp, narrow courtyard. The stores occupied the two rooms on the ground floor. Though to a careless observer each section of these buildings seems precisely duplicated in the other, this is not the case. Some of the residences are larger than the others and those next to the corners of Decatur and Chartres streets are much smaller than the rest. If facing the buildings from Jackson Square, you look along the upper facade, you will notice that the central portion of the roof is broken by a gable. It was this central building that Micaela destined for her own use, though she occupied it apparently only a few months. This was the finest residence of all. Here we find a drawing room so large that it seems unsuited even to the leisure and elegance of her lordly time. Four tall windows still look northeastwardly across the Square. A handsome black marble mantel stands in the center of the wall towards the Mississippi river which is only a stone's throw away. The wall opposite the windows is broken by mammoth folding doors which open into another room almost equally as large and this enormous apartment, in its turn, looks into the courtyard. On the floor above are the bedrooms. In the "wing" extending back along the courtyard there are several rooms on each floor which could also be used as sleeping apartments while in the attic under the gently sloping roof are other rooms, presumably intended for the numerous domestics which so grand an establishment presupposed.

Although for many years these rooms have been forgotten and neglected save for those transients who have occupied them from time to time, they still retain a dignity and a definite charm. It is easy to picture the lavish and luxurious life of those elegant Creoles who once lived there. In the center of the ceiling an elaborate plaster ornament testifies that an ornate crystal chandelier once was suspended there and spikes driven deep into the walls show where rococo mirrors hung—tall pier glasses between the windows facing Jackson Square and a huge mirror above the mantel that the prisms of the chandelier might be reflected there. Although we have no means of knowing nowadays, there is a probability that another large mirror hung on the wall opposite the

fireplace, for is there not a Louisiana proverb which says: "Give a Creole a crystal chandelier and two mirrors to reflect it and he is satisfied"?

Your imagination can fill the room with the furniture of the period—or rather with furniture of the Empire period, for Micaela Almonester Pontalba had inherited magnificent furniture from her father and from her mother, the lovely Louise de la Ronde. The draperies were of crimson brocade and the furniture was upholstered in brocade of a darker tone.

Picture this then—a room large and almost square, with glittering chandeliers and many mirrors with shining brass and glistening crystal and with dark mahogany furniture upholstered in somber red. It was here that the Baroness Pontalba received her friends before the fire in winter and by the tall windows in summer. And while she lived there the statue of Andrew Jackson was erected in the center of Jackson Square—and whether by accident or design, the general sits upon his rearing steed still lifting his bronze hat to the empty windows which once framed the haughty, aristocratic old woman.

Here it was that Madame de Pontalba entertained the famous singer, Jenny Lind, when the latter paid her memorable visit to New Orleans in 1851. The "Swedish nightingale"—so they called her—remained in the city one month, and during that entire time was the guest of the magnificent Micaela. Jenny Lind was making a tour of the United States under the management of P. T. Barnum. She had met with tremendous success in the north and New Orleans was on tip-toe with curiosity when it was announced that she would come to the city. She went from New York to Charleston, from Charleston to Havana, and from the Cuban capital she came to New Orleans, arriving here on February 7, 1851. Her reception was extraordinary. The Place d'Armes was filled with a huge crowd as the steamer, Falcon, bearing the famous singer docked in front of the square. So great was the excitement that the fair Jenny was terrified and refused to leave the vessel. However, a woman in a green veil, such as ladies wore in those days, was seen to descend the gang-plank, enter a carriage and drive toward the Pontalba building. The crowd followed her madly—only to learn that it was the diva's maid. Then Barnum drove past accompanied by another heavily veiled lady. This time the people

were sure that the singer had disembarked and they gave the carriage and its occupants a rousing greeting but laughed good-humoredly when it was ascertained that Barnum's companion was really his daughter.

Finally a dingy public hack drove up to the ship's side and Jenny Lind descended unobserved to take her place in this unpretentious equipage. She was thus enabled to make her way in safety to the building. A moment later Madame de Pontalba escorted the famous singer to the balcony whence she bowed her acknowledgements to the uproarious multitude which only then and very reluctantly consented to disperse. But at eleven o'clock that night it was back again. A procession of citizens, preceded by torches, assembled beneath Madame de Pontalba's windows to serenade the fair guest. The orchestra was conducted by Carlo Patti, uncle of a little girl who was destined to grow up and become an even greater musical celebrity than the lady who was the object of that famous midnight festival.

Four weeks later when the New Orleans firemen celebrated their annual reunion with a gorgeous parade, said to have been the largest and most brilliant ever seen in the city, they went out of their way to file past the Pontalba buildings. Jenny Lind reviewed them from the familiar balcony. Stopping in the street below, the bands broke into "Home, Sweet Home." At the end of the serenade there were cheers for the charming singer bowing and smiling and blushing above. Jenny Lind had greatly endeared herself to the local public, not merely by her art but by her generosity for she gave the entire proceeds of her opening concert, amounting to over $5,000, to charity.

Madame de Pontalba certainly did her part to make the songstress' stay in New Orleans pleasant. For one thing she brought to the city the celebrated chef, Boudro, to prepare for her guest's consumption those exquisite dishes which only he knew how to concoct. Boudro was one of the most famous Parisian cooks of his time. He was induced to come to Louisiana by Mandeville de Marigny and by Marigny's crony, the impresario John Davis, who was for so many years manager of the French Opera House. These two men were interested in a real estate scheme at Mandeville and Boudro was to manage a hotel there which would attract people from New Orleans and make them invest in lots. The scheme fell

through and Boudro eventually removed to New Orleans, or rather to Milneburg where he dwelt till his death at a ripe old age, remembering to the last with justifiable pride the time when he cooked for the "Swedish Nightingale," and was thanked by her for his clever work.

There are indications that in extending this boundless hospitality to the city's charming guest, Mme. de Pontalba was not actuated altogether by disinterested motives. She wanted to attract attention to her new buildings. From the time that these structures were finished, Micaela embarked upon an energetic campaign for tenants. She wanted only the "best" people to live there. She wanted only the finest shops in the ground-floor rooms fitted up for them. She resorted to some curious devices to effect her purpose. In the records of one of the old New Orleans jewelry stores there still exists a letter from her inviting the firm to establish itself in the new Pontalba buildings rent free. The idea was that so important a house would lend prestige to the place and bring other, paying tenants in its train. But the tide of business was already setting away from the Place d'Armes. Despite Micaela's efforts this particular firm located itself on Canal street where it still remains. The entertainment of Jenny Lind was, I suspect, merely another step in the "old Creole Baroness' campaign."

She was not wholly unsuccessful. For years the lower floor of the Pontalba buildings housed a respectable array of handsome shops behind the heavy batten windows which closed so tightly at night. The upper floors were taken by some of the wealthiest and most distinguished families in the city. But the region was already beginning to decline in social and commercial importance when the Civil War broke out. At Micaela's death fourteen years later there started a period of decay not alone of her buildings but of the entire French quarter. Slowly the more desirable element in the population abandoned that part of the city and was replaced by low-caste foreigners, chiefly Italians. Finally the only tenant remaining in the lower range of the Pontalba buildings was Mme. Begué, whose restaurant was so long operated at the corner of St. Ann and Decatur streets. The upper building fared little better. In 1908 a public speaker referred to it as "a filth hole, populated by rats and vermin." The trouble was with the Pon-

talba heirs. They were content to get what they could from the property but refused to spend a cent for maintenance. In fact the descendents of Micaela had become so numerous and included so many minors that expenditures could not well be made without resort to complicated legal proceedings in France. Matters were allowed to drift along to the increasing detriment of the Pontalba buildings until 1920.

In December of that year, however, steps were taken in one of the New Orleans courts to have the property sold and the proceeds distributed among the numerous representatives of the imperious old lady, dead nearly fifty years before. At that time one half interest in the Pontalba buildings was owned by Mme. Marie Claire Josephine Lechavallier de Barneville, widow by her first marriage of Joseph Celestin Delfau, Baron de Pontalba, and just then wife of Louis Frederic Soyer, and by two children, Marcel and Robert de Pontalba. The other half was divided among some dozen persons, including the Comte de Maricourt and the Countess d'Astier d'Ussel. At the sale which duly took place the upper building was purchased by a local real estate agent, Alfred Danziger, and his associates and the lower was acquired by the late William Ratcliffe Irby, for $68,000. Danziger and his friends spent a large sum in putting their property in order. Some desirable tenants were found, including the Little Theater which made its home for a time at the corner of St. Peter and Chartres. Mr. Irby, however, bought the lower building with the intention of presenting it eventually to the Louisiana State Museum. He made the necessary repairs, cleaned the place and turned the property over to a real estate agency to rent to whomsoever wished to rent and at whatsoever price they wished to pay. When in 1926, on the death of Mr. Irby, his will was probated, the Museum came definitely into possession of the property and ever since the labor of restoring the structure to the condition in which it was when the indomitable Micaela left it eighty years ago has been going forward.

Such then is the story of the Pontalba buildings. But before we bring this paper to a close, we must say something about one further episode in the career of our "old Creole Baroness." For we were perhaps not altogether justified in saying that the Pontalba buildings represent her only contribution to the "advance-

ment and improvement" of her native city. Jackson Square as it is today is virtually what she made it. It was she who insisted upon converting it from the bare and uninviting common which it was in 1848 into the charming spot which it is today. She gave it its air of Parisian elegance and old world charm. When Micaela came to New Orleans in 1848 Jackson Square or as it was still called, the Place d'Armes, was enclosed with an iron railing inside of which across the northern and southern sides ran a triple rank of sycamores. There were benches along a shelled walk under the trees. The rest of the square was divided by paths into irregular spaces overgrown with grass. In the center of the Place d'Armes was a cannon which was fired every night at nine o'clock as a signal for slaves to leave the streets. After that time no negro was allowed to be abroad without written permission from his owner and even then he ran considerable risk of being taken up by the patrol and kept in jail till the morning. Later in the night a watchman on duty on the roof of the Cabildo on the lookout for fires, proclaimed the passing hours adding as he called them off, the gratifying assurance that all was well.

But as Micaela's plans for her new buildings developed she realized that this rustic pleasure-ground harmonized very badly with the distinctly Parisian character of their architecture and she determined to give the Place d'Armes another and more pleasing aspect. In the course of her correspondence with the city council she demanded that steps be taken to beautify the spot. "Cut down those unhappy sycamore trees," she wrote, "for they are only fit to shelter human and other vermin." In their stead she wanted shrubs and flowers after the fashion of those pretty little parks which contribute so much to the beauty of the French capital. She had her way and the sycamores were cut down. The last one was felled on November 29, 1850. There was much opposition to the sacrifice of the trees, but in spite of it Micaela carried her point. She it was who insisted upon the construction of the handsome iron fence which still surrounds the square. Finally, with her approval, though apparently not directly at her instance, the Council adopted on January 25, 1851, a resolution providing that thereafter the Place d'Armes should be known as Jackson Square and that the Place du Cirque, or Congo Square, which we now call Beauregard Square, should be known as the Place d'Armes. There had previously been a Jackson Square in

New Orleans but it had been ceded to the United States government and the Mint was erected on the spot. Micaela was an enthusiastic admirer of the gallant general and we may be sure that it was very gratifying to her to have his name associated with the pretty gardens which were being laid out in front of her property on St. Ann and St. Peter streets.

Micaela also contributed handsomely to the fund raised towards the end of her stay in New Orleans to place in the new Jackson Square a statue of the victor of 1815. The idea of a monument to Jackson was not new either. In January, 1840, when old Hickory paid one of his fairly numerous visits to the city, the corner-stone of a memorial had been laid in the middle of the Place d'Armes with a great deal of picturesque ceremony. But the project was suffered to lapse and not till 1851 was it revived. We may in the absence of evidence to the contrary assume that it was largely Micaela's interest which encouraged these meetings of citizens held early in 1851 with a view to urge the completion of the memorial projected so many years before. She did not, however, remain in New Orleans long enough to see it unveiled as was done in December, 1885.

It is not my purpose to trace the history of Jackson Square or of the Pontalbas further, though perhaps that would be interesting. Within the last few years, thanks to the revival of interest which has taken place in the French quarter, the old square and the memorials in and around it which perpetuate the name of one of the oldest families of our colonial nobility, otherwise quite vanished from our midst, have undergone great improvements. Jackson Square, as we said at the beginning of this paper, is at present one of the city's most charming pleasure-grounds. The Pontalba Buildings, upper and lower, seem destined to come back into something like their primitive distinction. Let us hope that fortune which has in the past treated them so cruelly will not desert them again and that a century from now square and houses and all will still be there in the midst of the Vieux Carré, to recall to another generation the avaricious old Don Andrés Almonester and his strong-willed, resolute, hard-headed daughter, Micaela.

WET SAND AND COTTON—BANKS' RED RIVER CAMPAIGN

By COLONEL H. L. LANDERS*

Washington is a pool into which fishermen have dropped expectant lines for a century. It is the source of a stream that floats hope, ambition, success and failure. In national crises the pool accommodates its size to the needs of a ten-fold increase in its fisher patrons. In its turbid waters prize catches are made by some; while others continue their unprofitable efforts through months of soul-shriveling hopelessness.

This pool can change its waters. More, it can be two pools at the same time; one providing profitable sport, the other bringing destruction to those who fish its waters—a Stygian pool. He who fishes with a swarm of friendly advisers at his side, leaves the pool and the capital with the air of one whose brow bears the crown of victory. His neighbor on the banks of the pool may be less fortunate in his counselors. Or he may be even more unfortunately disposed in that he is not by the pool to fish—he is far away and other hands cast his line—this time into the Stygian pool of blasted reputations.

Thus it was in the Spring of 1864, when the Nation's capital had three tasty morsels with which to bait the hooks of adulation, uncertainty and condemnation. Grant, the newly made commander of the Armies of the United States, was successfully hammering Lee's Army in the Wilderness and at Spotsylvania; Lincoln and his friends were preparing to blast those who might be bold enough to oppose the President in the Baltimore Convention to be held in June; a great military and naval expedition into the heart of Louisiana had failed, and the black pool was being stirred so that from its depth ruined military reputations might be snared.

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News was transmitted slowly in those days. It took a week or more for the bearer of dispatches to travel from the Red River country to Washington; and too frequently did some in authority gloat when failure, in a department not their own, was reported. In this fourth spring of the War Between the States, Washington officials were inquiring: "Who got up this Red River Expedition?" Secretary Welles of the Navy Department said he was not responsible for it. Did Halleck, General-in-Chief of the Army before Grant took command, force Secretary of State Seward to acquiesce in the campaign? Or was it the other way around—that Seward ordered the Army to fly the flag in Texas and keep it there?

The atmosphere in Washington was conducive to the propagation of gossip destructive of both personal character and professional reputation. Among those in the theater of operations with the Army and Navy were many who lacked friends at the seat of Government, powerful enough to prevent reputations being ruined. At a party given in the month of May by Mrs. Sprague, daughter of the Secretary of the Treasury, Chase remarked to Welles, speaking of cotton speculation: "Yes, your whole fleet out west is infected; Porter devotes his attention to getting cotton and has a boat to himself, with a piano and a pipe, on these raids." Welles came to the defense of the Navy with the retort: "The naval men could capture and retain nothing, which the courts do not adjudge to be good prize."

The Navy Department had been supplied with abundant complaints against the Army. Rightfully so, in all probability, but the letters might have shown less animosity. Welles, in Washington, was able to estimate Banks' ability as a military leader from personal acquaintanceship with the man, and from gossipy letters from the navy. He wrote in his diary: "Banks has much of the demagogue, is superficially smart, has volubility and a smack of party management, which is often successful." Then he added: "The President thinks he has Presidential pretensions and friends to back him, but it is a great mistake. Banks is not only no general, but he is not much of a statesman."

Letters from Admiral Porter added heat to the indignation felt and displayed by Secretary Welles whenever the Red River Expedition was discussed in the Capital or in Cabinet meetings.

He could not understand why the President continued Banks in command, as "none speak favorably of him as a military man, and his civil administration is much censured." Finally, there arrived in Washington on the 8th of May a bearer of dispatches from the fleet. The messenger had left the Red River the latter part of April, before the army and navy were able to extricate themselves from the town of Alexandria in Louisiana. The letter brought from Admiral Taylor accused General Banks of equivocating; of electioneering; of speculating in cotton; of general malfeasance in the civil administration of his command; and mismanagement of military operations.

Welles took the dispatch-bearer to see Mr. Lincoln. The President, after listening to the recital of events which had occurred in Louisiana during March and April, remarked to Welles: "I had rather cousined up to Banks, but for some time past have begun to think I erred in doing so." He then repeated the two verses from Moore, commencing:

> Oh, ever thus, from childhood's hour,
> I've seen my fondest hopes decay.

Upon returning home from the White House, the diary was made to absorb the last troublesome thoughts concerning Banks with which the Secretary of the Navy permitted himself to be annoyed. "He is a pretender," Welles confided to its pages, "not a statesman; a politician of a certain description; has great ambition but little fixed principle."

Certainly, for this absent fisherman, there were those in Washington more than willing to drop this line into the Stygian pool.

During the progress of the Civil War, many of the battles waged were the subject of immediate investigation by a joint committee of Congress, for the purpose of determining why the Federal leaders were unsuccessful. This fishing in the mucky waters started with the first Bull Run, and ever after the Army of the Potomac was fair game for this inquisitorial sport. But no military operation that was investigated by this committee was so productive of villification, bitter personalities, charges

and counter-charges as were made public when the committee, during the latter part of 1864 and the early part of 1865, investigated the conduct of the Red River Expedition.

Here was an amphibious operation, engaged in by an army of considerable size acting in cooperation with the Navy, that met with disaster. Failure in itself to take and hold the Red River country became a matter of diminishing importance as the investigation progressed. The censorious committee and a scandal-appreciative public found other parts of the show more diverting than were the recitals of tragic and ludicrous combat on land and water.

The general in command had an assorted army, part of which he commanded and part he didn't. Or at least so said General A. J. Smith, who considered his 10,000 troops as merely loaned by Sherman to Banks, the commander of the expedition. In the mind of the admiral, there never was any question as to whether or not he commanded everything on the water. But who was to have joint authority over both land and water and say that the expedition will do this or that? Neither the admiral nor the general. Despite the fact that the war had been going on for three years, and that numerous joint enterprises had been conducted by the Army and Navy, there had never been unity of command in these amphibious operations. The admiral would write to Secretary of Navy Welles, eight to ten days distant in communication time, for instructions. The general's request for instructions would go to the General-in-Chief in Washington, or to the Secretary of War. All three, Welles, Halleck and Stanton, were just as liable as not to take their problems to the President for a decision.

The purpose of the Red River Expedition was primarily a military one—to ascend that stream and open up Northern Louisiana and Northern Texas to the Federal Army. The effect of this cleavage on the South would be to deprive her of a vast storehouse of supplies. Tacked on to this objective was the rather novel requirement that the United States flag must be displayed somewhere in the State of Texas. Mr. Seward did not want to handle a delicate situation in Mexico, after the war in the United States had collapsed, and find that his negotia-

tions were imperiled because the stars and stripes were no where flying in that imperial state, only two decades removed from Mexican sovereignty.

This situation had been brought about during the latter part of 1861, when French, English and Spanish troops invaded Mexico for the purpose of forcing the government to pay debts due European creditors. In June of 1863, French troops occupied the City of Mexico, and President Juarez was driven northward from the capital, accompanied by a band of loyal patriots. Napoleon III was talking of establishing an empire there, and should this ambitious scheme be put through, there was great danger that a demand would be made upon the United States to return Texas to the imperial flag of Mexico.

Louisiana was rich in cotton. Three to five cents was all it was worth on the plantations, but once get it to a shipping point in the Gulf along its western coast, and then out of the country on a blockade runner, Europe would pay fabulous sums for it. How seductive a speculative effort it would be to get that cotton into one's personal control! What a temptation for the civilian chiseler who by hook or crook could get up the Red River under the protection of the flag! Even the army and navy, I fear, succumbed to this insidious temptation. Gossip at the time of the expedition had it that Banks was bartering his protection of a group of speculators for the nomination for the Presidency in the coming national convention. Lincoln, so the gossipers whispered, would be carried along for awhile and then ditched. Banks would become the compromise candidate.

On the military side quite an assortment of unusual and bizarre incidences occurred: A cavalry general fighting at the head of 3,000 men with his wagon train cluttering up the road immediately in rear of his position; gunboats and transports endeavoring to navigate a stream that carried from six inches to three feet less water than the vessels drew; pride of service prompting the boastful remark that the gunboats could be taken through any stream-bed where the sand was wet; sharpshooters from the river banks pot-shooting the pilots of grounded boats;

cannon drawn by galloping horses with wildly excited riders going into action on the river bank against tin-clads and other naval vessels; and finally a magnificent piece of engineering whereby the waters of the Red River were raised several feet and a marooned naval squadron released.

Much of the history of 1861-65 occurred in the valley of the Mississippi—the "Old Man River" whose entire length is part of the daily life and concern of all who live near its course. As you travel its lower stretches in Louisiana you want to leave your car and climb that forbidding bank, beyond which you know there is a tremendous power of restrained water. It tempts you. It haunts you. If you think too much about it a cold fear grips your heart. You find on the bank some of those who live under its shadowy menace, walking the broad top of the levee for a breath of stirring air. They walk and sit; then walk again. But few words are spoken and those scarcely above a whisper. Even the play of the children is subdued. Beyond, the muddy stream flows resentfully; angered that it is held in restraint. The soft patois of the Creole has to do with the stream or his home. His faraway look penetrates your being until you are carried back in thought, with him, to Acadia and France. A boat or string of barges passes. It causes a fleeting glance of interest; a faint, tremulous smile, and maybe a half dozen softly spoken words. The setting sun colors the water and the sky. The river, for a brief time, seems more kindly, and a wistful twist of thankfulness comes to some lips. Then as night descends, their gaze becomes one of subdued and mournful silence. They seem to be watching the river pay its devoirs to a God—uncertain whether the Diety is in a compassionate or an angry mood. Their good-night to the menacing stream is a prayer for the safety of their homes.

Two other water-channels of importance played a part in this expedition. General Banks used both of them in his campaigns of 1863. They are Bayou Teche, where Evangeline waited and mourned, and the Atchafalaya River. These streams are typical of the many narrow, tortuous, sluggish water-channels that give to Southern Louisiana its geographical distinctiveness and appealing beauty. Unless one knows these flat streams and their equally flat border lands, he can but illy comprehend the difficulties connected with military operations over, around,

or on them. This is the country of the Creoles. Here they live on these bayous as their ancestors did two hundred years ago. Simple homes of white and green, many of them are, of two or three rooms; not separated much distance one from the other, for these people are sociable and clannish. Mansions, aged and shaded by moss-curtained live oaks, where life is joyous and plenteous, and a guest is warmly welcomed into a family circle whose progenitors came to Louisiana when Bienville governed.

The Creoles were dear to me, and never more so than when asserting, with a laugh in the eyes: "General Jackson? Certainly we know of him. He fought at Chalmette. He helped Jean Lafitte and the Creoles lick the British."

There is one more river with which this article is concerned —the Red. It, too, has a distinctiveness—a background of mysticism. Winding like a lazy serpent of the sea in tightly drawn convolutions, its coils double back on each other so sharply that to navigate its channel from town to town necessitates, in many cases, steaming a course three times as great as is the distance by land. Muddy and ugly it is at times, but not always. More frequently you are enthralled with its never understood mysticism. You unexpectedly see in it colors of startling unusualness. Then, when you catch it at the height of its glorious beauty, the sun is glinted from its burnt-gold surface and before you is spread the panorama of an immense ribbon, so deep-colored and shining that you gaze upon it in awe-struck wonder. This, also, is a river of the Creoles. Not all of it, but that part with which this article deals.

The Red River Expedition was planned in 1863; in fact its inception goes back one more year. Its consummation occurred during the months of March, April and May, 1864. The failure of the expedition to accomplish any permanent benefit, and the defeat suffered by the army in the Battle of Mansfield, together with the scandal which the public believed to exist in connection with cotton speculations, aroused so much indignation in the North that the censorious committee of Congress finally had to take action.

In a resolution adopted by the House of Representatives on December 6, 1864, it was provided "that the Committee on the Conduct of the War be requested to inquire into the causes of the disastrous issue to the Red River Campaign, under Major

General Banks, and to report thereon at their earliest convenience." The hostility of Congress in adopting this resolution was indicated by their characterizing the campaign as "disastrous." But the Army and Navy were hardened by this time, the fourth year of the war, to these investigations. They had survived so many of them.

In 1862 General Banks was sent from his command in Washington to relieve General Butler in the Department of the Gulf, with headquarters at New Orleans. His mission in this theater of operations was definitely indicated by the General-in-Chief, Halleck. Banks was directed not to lose a moment in opening the Mississippi. After capturing Vicksburg and destroying the railroads at Jackson and Marion he was:

> Second, to ascend with a naval and military force the Red River as far as it is navigable, and then open an outlet for the sugar and cotton of Northern Louisiana.
>
> It is also suggested that having Red River in our possession, it would form the best base for operations in Texas.

Upon assuming command of his department in December, 1862, General Banks found his forces holding positions from the Floridas to Western Texas on the Gulf, and upon the Mississippi from its mouth to near Port Hudson. As Port Hudson, which was located on the Mississippi less than half way from New Orleans to Vicksburg, was held by a strong body of Confederates, Banks determined to pass around it and reach the river higher up, rather than to engage in the extensive operations which would be necessary to capture the place. To make this detour communications by water had to be found. Passage was sought through the Bayou Plaquemine, which communicated with the Atchafalaya near Butte la Rose, and from thence to Bayou Teche. If it were found that these bayous would permit the passage of gunboats, the way would then be clear to pass from the Atchafalaya into the Red River, thence into the Mississippi at a point between Port Hudson and Vicksburg. An army under Grant was operating along the Mississippi north of Vicksburg.

The attempt to detour around Port Hudson failed on account of the complete stoppage of Bayou Plaquemine by three

years' accumulation of drift-logs and snags, which filled the bayou from the bed of the stream to the surface of the water. The channel was impenetrable to the gunboats and transports, and months of labor would be required to open up navigation.

Operations on a minor scale were conducted at various places on the Atchafalaya and Bayou Teche during the early part of 1863, when a call came from Admiral Farragut that demanded more aggressive and better coordinated action on the part of the army. Several Confederate gunboats controlled the Mississippi between Vicksburg and Port Hudson, and had access to the Red River. Grant was preparing to begin his move on Vicksburg, and the fleet under Farragut was to join with the army in this enterprise. The removal of these annoying enemy gunboats from the Mississippi was of prime importance, and Banks was asked to aid in getting rid of them by making a demonstration against the fortifications at Port Hudson, while the fleet ran the batteries upon the river.

All the disposable military force of the department was moved to Baton Rouge for this purpose early in March. On the 13th of the month the troops marched out to the rear of Port Hudson, about 12,000 strong. With great gallantry the fleet ran past the batteries in the evening and during the night of the 14th of the month. There being no further need for the army to invest Port Hudson at this time, it returned to Baton Rouge to complete its organization for a later assault or siege of the strong works which protected that place. Meanwhile minor operations were being conducted on the Atchafalaya and in the Teche country which resulted, on the 2d of May, in establishing water communication with Admiral Taylor at the mouth of the Red River.

An active campaign was now conducted up the Red River. The strong Confederate work at Fort De Russy, near Marksville, was turned. This success compelled the immediate evacuation of that post by the enemy, and a fleet of gunboats under Admiral Porter passed up the river to Alexandria, without firing a gun. Both the army and navy reached Alexandria on May 9, 1863. The enemy continued his retreat in the direction of Shreveport.

During these lesser activities, frequent correspondence passed between Grant and Banks to arrange details for opera-

tions on a more extensive scale which would, once and for all, settle the question of domination of the lower Mississippi Valley. It was planned that Grant's army would attack Vicksburg at the same time that Banks engaged Port Hudson.

Banks was now ready for this important move. His command left Alexandria on the 14th and 15th of May, a portion going down Red River by boat and the remainder marching by land to Simsport. They crossed the Mississippi at Bayou Sara on the night of the 23d, and from there moved directly upon the enemy's works at Port Hudson, a distance of 15 miles, on the 24th of May. The investment of the works was completed the following day, and two days later an ineffective but costly assault was made to rush the defenses. The night of the assault, the 27th, Banks' army rested within rifle-shot of the Confederate work, and on the following day began the laborious tasks connected with siege operations.

The siege lasted for 39 days, during 21 of which there was incessant firing day and night. Communication was maintained with Grant at Vicksburg during the progress of the operations, and on the 6th of July word was received that Vicksburg had surrendered. Negotiations were at once entered into by Banks for the surrender of Port Hudson without further fighting, and on the 9th of July the Federal troops took possession of the works.

After the surrender of Vicksburg and Port Hudson, Banks joined with General Grant in recommending an immediate movement against the City of Mobile, but before the operations were begun a dispatch came from Washington that changed conditions completely. This message, sent by Halleck for the Secretary of War, was dated August 6, 1863:

> There are important reasons why our flag should be restored in some part of Texas with the least possible delay. Do this by land, at Galveston, at Indianola, or at any other point you may deem preferable. If by sea, Admiral Farragut will cooperate.

Four days after Halleck sent this telegram, he wrote to Banks that the Secretary of War left it entirely to his discretion to select any point for occupation in Texas, either on the seaboard or in the interior, "the only condition imposed being that

the flag of the United States should be again raised and sustained somewhere within the limits of that State." The purpose of the order was not known to Halleck, except that it was intended to prevent some European complications, and Mr. Seward demanded "that the flag be restored to *some one point* in Texas." It will be recalled that in the preceding June the French army had driven President Juarez from the capital of Mexico.

Halleck, in his letter, strongly advised Banks against occupying either Galveston or Indianola, both of which places he had specifically mentioned in his telegram. He now declared that the best and safest move would be a combined military and naval expedition up the Red River to Alexandria, Natchitoches or Shreveport, and the military occupation of Northern Texas. "Nevertheless your choice is left unrestricted," he added. "I write this as a suggestion and not as a military instruction."

The selection of the route having been left to Banks, he prepared for a movement by the coast against Houston, selecting the position occupied by the Confederates on the Sabine, the river which divides Southern Louisiana from Texas, as the point of attack. About 12,000 troops were given to General Franklin to accomplish this mission. A squadron of gunboats was assigned by Admiral Farragut, under the command of Captain Crocker. The mouth of the Sabine was the immediate objective. The gunboats, originally lightly constructed merchant vessels, entered the pass and moved up to engage the fort near Port Arthur. Fire from the squadron made no impression upon the fort, but the gunboats were hit repeatedly and got out of hand. Soon two of them were aground in the shallow water and the narrow channel of the pass, and were compelled to surrender to a force of gunners about a hundred strong. Franklin ordered his transports and troops back to the Mississippi, without any further attempt to effect a landing.

The expedition returned to New Orleans on the 11th of September, whereupon Banks ordered a movement of the army by land across Southern Louisiana to Niblett's Bluff on the Sabine. The troops were rapidly transferred to Bayou Teche and organized for this expedition, but the impracticability of

the route soon became apparent and the expedition was abandoned. A wagon-train to provide a supply-line 300 miles long was too much of an undertaking.

Banks was now becoming rather desperate in his efforts to find a land route, or a combined land and water route into Texas. Sabine Pass had blocked Franklin's command; Niblett's Bluff offered too many difficulties in the matter of transporting supplies; a route via Alexandria and Shreveport was deemed impractical on account of the great length of the supply-line. But one other piece of strategy was open to him—to enter Texas by way of the Rio Grande.

A small expedition under the immediate command of Major General Dana, accompanied by the department commander, sailed from New Orleans on the 26th of October, 1863, for the river which separates Texas from Mexico. A landing was effected at Brazos de Santiago on the 2d of November. Brownsville, thirty miles from the mouth, was occupied four days later. After making provisions for garrisoning the post at Brownsville and keeping open the river to the Gulf, Banks moved with all the troops that could be spared, his purpose being to seize the passes on the coast between the Rio Grande and Galveston.

Point Isabel was occupied on the 8th of November. By the aid of steamers obtained on the Rio Grande, with the consent of the Mexican authorities at Matamoros, Banks was able to transport troops to Mustang Island. From there an assault was made on the works commanding Aransas Pass and their reduction followed. The works at Pass Cavallo, commanding the entrance to Matagorda Bay, were next taken, and Fort Esperanza was invested.

The occupation of Brownsville and Brazos de Santiago, and the capture of the works and garrisons at Aransas Pass and Fort Esperanza, left everything on the coast of Texas in possession of Banks' army, except the works at the mouth of the Brazos River and on the island of Galveston.

The progress of events in Texas during November and December was watched closely in Washington, where the conclusion was reached that Banks was getting nowhere. The troops on the coast of Texas were so far removed from the

army under General Steele, operating north of the Arkansas, and of Sherman's army on the upper Mississippi, that no co-ordinated movement could be made by these separate commanders, and their individual efforts were likely to be fritted away. So Halleck wrote to Banks that in the opinion of Steele, Sherman and himself the Red River was the shortest and best line of defense for both Louisiana and Arkansas, and as a base of operations against Texas, and suggested that he withdraw from the Gulf coast and make plans to ascend the Red River.

Banks replied to Halleck's letter on the 23d of January, 1864, and in no uncertain terms agreed to the feasibility of this strategy. Later he was to declare with equal vehemence that he always opposed the Red River line. In referring to the proposed junction of Steele's command with his own army, Banks wrote: "With our united forces and the assistance of General Sherman, the success of the movement on that line [Red River] will be certain and important. I shall most certainly co-operate with them in executing your orders."

The troops proposed for participation in this expedition were as follows: The 19th Corps, commanded by General Franklin, located between Berwick City and the town of Franklin, with one division at Madisonville, and General Ransom's division of the 13th Corps, lying west of Berwick Bay. These forces numbered about 17,000 men and represented the contribution from the Department of the Gulf to the enterprise. General A. J. Smith, with 10,000 men, was to be loaned by Sherman for a period of thirty days. General Steele was to come down from Arkansas with a column of 10,000 men and effect a junction at some point on the Red River below Shreveport. Admiral Porter was to accompany the expedition with a considerable naval force.

Sherman went down to New Orleans to arrange the details of the enterprise with Banks. The 17th of March was fixed upon as the time when the navy, convoying the transports carrying A. J. Smith's detachment from Sherman's army, was to meet up with Banks' army at Alexandria. Banks intrusted the command of his troops to Franklin, as he was not prepared to leave New Orleans. The President, in a personal letter, had charged Banks with duties in New Orleans not immediately connected with military operations, but which he deemed to

be of so much importance as to require his personal attention. The letter had reached Banks while he was at Pass Cavallo. The President had directed him to organize civil government in Louisiana. The June convention was approaching and delegates were needed.

Early in March Porter assembled a fleet of fifteen ironclads and four lighter boats, and sent some of the vessels into the Atchafalaya and Black Rivers to destroy bridges and stores. On the 11th the command of A. J. Smith, 10,000 men, reached the mouth of the Red River in transports, and the following morning the gunboats started up that stream, followed by the transports. There was barely sufficient water to allow the larger boats to pass. The river was lower than it had been at this season for years. Porter gazed with gloomy thoughts upon this trickle of water.

When the mouth of the Atchafalaya was reached, nine of the gunboats escorted the transports to Simsport, where A. J. Smith's command disembarked on the morning of the 13th of March. The following day this command marched 28 miles, which put it in rear of the strong Confederate position on the Red River at Fort De Russy. Smith attacked in conjunction with the gunboats on the river and the fort surrendered, after the greater part of the garrison had made their escape.

The works at Fort De Russy were extensive and formidable. In reporting to the Secretary of the Navy on the action, Porter said the Confederates did not seem to know what to do with the defenses after they were constructed. They had depended upon the forts to "stop any advance of army or navy into that part of rebeldom." Porter made caustic comments on the obstructions placed in the river, "which look well on paper, but don't stop our advance." We get quite an insight into the imaginative workings of his mind from a passage in a letter to Welles, regarding war in general in the South:

> The efforts of these people to keep up this war remind one very much of the antics of Chinamen, who build canvass forts, paint hideous dragons on their shields, turn somersets, and yell in the face of their enemies, to frighten them, and then run away at the first sign of an engagement.

Reporting in such language to the government in Washington, in the fourth year of the war, was not likely to promote a feeling of confidence in the writer, nor great respect for his opinions. Such levity is all right in a diary—but there it should remain. This letter was still in the Washington files when, a few weeks later, the antics of these "Chinamen" of the South produced so much consternation in the Federal forces that both the army and navy fled from the "canvass forts" and "hideous dragons" in terrified alarm.

Brig. Gen. A. J. Smith and his detachment from Sherman's army deserve praise for their accomplishments on the 14th. They marched 28 miles, starting from Simsport at daylight; built a bridge which took two hours; engaged in a sharp skirmish and artillery attack for two hours; and gained possession of the forts at De Russy before sunset. They showed the effect of their magnificent training under Sherman.

Admiral Porter arrived off Alexandria aboard the flagship Black Hawk on the afternoon of the 16th of March. Beyond this town the gunboats could not navigate, as there were no reliable pilots at hand to take the boats over the falls just above the town. This fact Porter wrote to Welles the day of his arrival in Alexandria. Keep it in mind, for the question as to why the army and navy did not proceed up the Red River until the 28th of the month was later disputed with great vehemence.

The troops under Franklin had a long march of 175 miles to reach Alexandria. They began to move on March 7, and two or three rainy days were lost as the roads became impassable. Brigadier General Albert L. Lee, with 5,000 cavalry, pushed ahead of the infantry and was in Alexandria the same day that the fleet and A. J. Smith's command arrived there.

General Banks came up by boat from New Orleans, reaching Alexandria on the 24th. His headquarters were aboard the Black Hawk, a boat bearing the same name as that on which Porter was domiciled. According to the admiral's testimony in the investigation, the army Black Hawk "was loaded with cotton speculators, bagging, roping, champaigne and ice."

The infantry of Franklin's command got into Alexandria on the 25th and 26th of the month, nine and ten days later

than the navy. It was only on the 10th of the month that Franklin had learned of the agreement made between Banks and Sherman that their forces were to effect a junction at Alexandria on the 17th.

The period of waiting had been vexatious to the navy—not because the major portion of the army had not joined, but owing to the impassable condition of the falls above Alexandria. The water was rising daily, but only by inches. The Eastport, the largest boat in the fleet which attempted the passage of the falls, was the first sent over. Local pilots, familiar with the river, were assigned to navigate her. The pilots assured the admiral she would ground on the rocks and she did. Tugs and light gunboats, working in the slowly rising waters, finally succeeded, after two and a half days' strenuous labor, in getting her through the chute. Meanwhile the Pittsburg, Chillicothe, Neosho and Ozark, all lighter boats, succeeded in passing up the river outside of the Eastport. One hospital ship struck the rocks and sank on the falls, but all the rest of the transports went over safely. The passage of the falls by some of the gunboats and transports was accomplished between the 26th and 28th of the month; others did not pass until the 2nd and 3d of April.

Before leaving Alexandria on the 29th of March to accompany the fleet up the river, Porter wrote to Welles that the rebels were retreating before the army, destroying all public and private property that might otherwise fall into the hands of the invaders. He declared that this was the last hold the rebels would have in that part of Louisiana, and that they seemed determined to wreak their vengeance on the unoffending inhabitants who had some little cotton to dispose of. "Their destructiveness has been a death-blow to the rebellion in this state," Porter wrote, "and General Dick Taylor has left a name behind him to be execrated when the rebellion is long past." False prophesying. No names in the entire list of Confederate leaders are today more revered in Louisiana than those of Dick Taylor and the Creole General Beauregard.

Before we follow the fortunes of the expedition beyond Alexandria, it will be well to look into the cotton speculative mess which was stirred up in that town. Much contradictory testimony was presented to the investigating committee in regard to the numerous individuals who accompanied the expedition to take a hand in this game. Casey and Co. had a permit from the President, but just for what purpose became quite a controversial matter. Captain Breese, commanding Porter's flag-ship, testified that a Mr. Butler and a Mr. Halliday boarded the Black Hawk and presented the Casey and Co. permit, which required all military and naval men to give them assistance in passing beyond the Federal lines, and to permit them to get cotton and take it out. Breese said he saw the permit and made a copy of it. However, he did not have the copy when he appeared before the committee.

The squadron had not been in Alexandria long before there were whisperings that Admiral Porter was financially interested in Casey and Co. Protests were made by individuals that it was unfair for Porter to permit some speculators to accompany the expedition and not others. Newspapers carried unfriendly comments. It was not until Halliday, who was a friend of the admiral, showed the Casey and Co. permit from the President to certain individuals, that the gossip subsided.

Colonel Wilson, an aide-de-camp on General Banks' staff, testified:

> There came to Grand Ecore a Mr. William Butler of Illinois and a Mr. Thomas E. Casey from Kentucky, who had authority from the President—I saw the letter myself —to go with the expedition. They were to have, I think, any transportation they should request from the naval commander of the army; at all events they were to have such assistance as the army and navy could render.

That the President could have been so foolish as to authorize these speculators to call on Banks and Porter for any transportation they might need, was something the committee refused to swallow. "You say you saw the letter of the President giving these gentlemen authority," a member inquired of Wilson, "will you be particular about the extent of that authority?"

The somewhat embarrassed colonel replied:

> Well, I could not be very particular about that because I did not actually read the letter. The letter was given to General Banks and he read it. I got my information as to the contents of the letter from him. I remember expressing surprise that the President should send such people there with any such authority. I saw the letter in his hands, and recognized the writing of the President from other letters I had seen, but did not actually read the letter myself.

A week later, on January 19, 1865, Wilson came before the committee again, to correct his previous testimony. He said that his statement that Butler and Casey had come to Alexandria with a letter from the President which directed the commanders of the army and navy to "render them such assistance and give them such facilities as they might ask," was misleading. "Upon further reflection," he now testified, "I am convinced that I was in error when I made that statement; that the letter of the President was merely in the nature of a pass, authorizing them to accompany the army and navy in their movements."

General Banks made a second appearance before the committee on the 13th of January, the day following the first appearance of Colonel Wilson. He was informed by the chairman of the committee that since his first appearance, the committee had listened to witnesses who told of cotton speculations, and that as his name had been mentioned in connection with the matter, the committee desired to hear him on the subject.

"Did any person accompany your expedition up the Red River, having authority from the President to purchase cotton or other commodities?" Senator Wade asked. The reply was:

> No sir; no person accompanied the expedition for that purpose, either with the authority of the President or of any other officer. But at Alexandria a gentleman from the West called on me—I cannot tell whether it was Mr. Butler or Mr. Casey—and showed me a paper from the President which authorized him to go beyond the lines. It was substantially in the nature of a pass; but inasmuch as he was to go by water, it of course carried, with the privilege to pass the lines, the privilege to take the steamer he was on, or something of that kind.

Banks told the committee that the inference drawn from the Lincoln letter by Colonel Wilson in his testimony given the

day before, was not sustained by the facts in the case. "The naval and military authorities were called upon to recognize the pass," Banks asserted, "but not to put anything at his [Casey's] service, or to give him support or protection; or to pass supplies or property of any kind, but merely to recognize the personal pass."

General Banks had been considerably perturbed when Butler and Casey presented their pass, as it was dated the previous December and he did not know, so he informed the committee, what it was all about. "Inasmuch as I did not know for what purpose it had been given," he said, "and the authority was sufficient to justify it, I had no hesitation in giving it my recognition, so far as to instruct the officers in my command to comply with its directions. The pass was in the handwriting of the President and with his signature."

Admiral Porter's testimony, given in April, 1865, partially confirmed General Banks' recollection of the authority granted by the President in the pass. He said:

> One person came up there [Alexandria] with permission from the President to purchase cotton, and requesting or calling upon the officers of the army and navy to afford such assistance as might be desirable. He brought his papers to me; they were all made out in form, and of course I indorsed them, directing all officers of the navy to respect the authority, and General Banks did the same.

It is probable the navy afforded no "assistance" to Casey and Co., for to have done so would be taking bread from their own mouths. Cotton was King—maybe no more than a temporary usurper—but from his throne he saw a three-cornered fight in which the navy gave no quarters to the other contenders.

Whether or not other individuals who accompanied the expedition up the Red River for mercenary purposes had authority from Washington, is difficult to determine. That a considerable number were on the scene, is well known. Colonel Wilson testified that he was greatly surprised, upon boarding the Black Hawk at New Orleans, to find

> Colonel Frank Howe, with four or five friends of his, who I knew were cotton speculators. I thought it strange that he should be there. It naturally occasioned some

conversation among the staff, and they all expressed some surprise at it. I could only learn—I never spoke to General Banks about it—that there had been some authority produced by these gentlemen from the authorities in Washington to accompany us.

It was believed aboard the Black Hawk that Howe's authority came through his friend Mr. Chase, Secretary of the Treasury.

About ten or twelve men, according to General Banks, accompanied him up the river. Some belonged to the press; others were officials of the Treasury Department; and still others were individuals from the Western States whose troops were with the expedition. He testified that he gave orders that no property could be carried from Louisiana except by and for the government; that every civilian who accompanied the army was to distinctly understand "that he was not to engage in any operations in relation to taking property or trading in the products of the country." He further declared that "every dollar's worth of property that was captured by the army was taken down to New Orleans in government vessels, in charge of the Quartermaster's Department, and turned over to the Treasury agent."

When Admiral Porter first came before the committee on the 7th of March, he painted a different picture than what Banks had portrayed. As previously indicated in this article, he had informed his superiors in Washington, during the campaign, of the alleged malpractices of the army in connection with cotton and other commodities, and he made very clear to the committee what he thought of army speculative activities. He told how the army Black Hawk came up the Red River loaded with cotton speculators, bagging and roping for cotton, and champagne and ice for the favored few. He declared the whole enterprise to have been a "cotton speculation."

Furthermore, Porter testified, there were with Banks four or five men "who had special permits, contrary to law, to buy cotton or take it."

"Who were these men?" a committeeman asked Porter.

"I do not remember their names."

"From whom were the permits?"

"From General Banks."
"Did you see the permits?"
"I saw one of them."
"What was it?"
"A permit to go into the country for the purpose of purchasing cotton."
"Signed by General Banks?"
"Yes, Sir."

Porter told of finding 230 bales of cotton in Alexandria, newly bagged. It belonged to a Frenchman who had a permit, signed by Banks, to take a supply of cotton bagging and rope into the country. Porter very ingeniously testified that he seized this property and sent it to court, where if adjudged as prize the navy would share in the proceeds received from its sale.

Concerning the unlucky Frenchman and his rights in the matter, Porter testified: "I have forgotten the man's name; he has been hanged since, I think."

A story, quite remarkable in that it refers to a point in history not generally known, was told to the committee by Captain Breese of the navy Black Hawk. It was that Ex-Governor Yates of Illinois, together with a number of friends, ascended the Mississippi to the mouth of the Red River, where the squadron patrol prevented their further progress. Their boat was turned down stream, and Yates and his friends returned to New Orleans, where they arrived prior to the departure of General Banks from that city to join the expedition. From this point on in his testimony, Breese repeated the many stories told him by cotton speculators regarding the understanding arrived at between Yates and Banks in New Orleans. He stated:

> There was to be an effort made in the coming presidential campaign to elect General Banks. Mr. Lincoln was to be the ostensible nominee, but nobody had any expectation that he would be successful.
>
> Therefore, they were going ostensibly to push him [Lincoln] as hard as they could, but in the end they were going to bring forward General Banks, who was to be a compromise candidate, and there was no doubt that he would be elected.

Money, of course, would be necessary to put this thing through, and Yates' party wanted Banks' influence to help them in the matter. The plan was that Banks should issue an order that all cotton that came into Alexandria would be seized and turned over to the Quartermaster. When the cotton reached New Orleans, those individuals who were "in the ring," as the schemers styled themselves, could buy the claims of the owners and have the cotton immediately turned over to them. Should the legal owners wish to dispose of the cotton themselves, so many obstacles were to be placed in their way, such as putting it before the courts, that it would be made almost hopeless for them to realize on it, and they would be glad to sell their claims for a mere song.

Captain Breese further said:

> The object of Governor Yates' party, as I understood it from these speculators, was to purchase cotton to promote the interest of General Banks as the compromise candidate for President. I heard this from half a dozen different persons.

In referring to the "unscrupulous speculators" who accompanied the expedition, Captain Breese said that "all seemed to agree on the story about General Banks, Governor Yates, and the party with him, making the arrangements I have stated. I gave more credence to that than to any other of their stories." Furthermore, he added, when the friends of Governor Yates arrived at the mouth of the Red River they told the captain of the gun-boat stationed there "they would gain him another stripe around his wrist if he would let them go up. He would not let them go up under any consideration. They then told him they would have him dismissed from the service."

How much of this story was true is hard to say. Ex-Governor Yates was called before the committee on March 23, 1865, but he was now United States Senator Yates. The committee read to him the testimony given by Captain Breese. Senator Yates then testified that in March of 1864 he was in New Orleans, and Banks invited him to accompany the expedition, but that he was unable to accept the invitation. He did introduce two gentlemen to Banks and asked passes for them. "Something might have been said to General Banks by the other

parties, not by myself, as to his being a candidate for the Presidency. At that time I had not thought of him in that connection, at least for the election of 1864."

Nathaniel P. Banks was no neophyte politician. He had been a member of Congress, and in 1855 was Speaker of the House of Representatives. In 1858 he was elected Governor of Massachusetts, which office he filled until 1861, when he was made a major general of volunteers.

The ludicrous side of the cotton scandal having been described, it is time to consider in more detail the bitter controversies which arose between army and navy officials, and which grew more heated as time went on. The committee on the Conduct of the War, stated, in their findings, that the navy seized a great deal of cotton as naval prize, both on the Red River and the Washita, and sent it to Cairo for adjudication by the United States Court.

Unfortunately, army officers were not acquainted with the legal rights held by the navy under the prize-laws, and were amazed to learn, when they reached Alexandria, that Admiral Porter, immediately on his arrival there, had begun to "capture cotton on both sides of the river."

"His marines were furnished with a wagon train," Banks testified, "and during the whole of that time they were passing out of our lines and returning with loads of cotton. Mechanics were sent from the vessels to put cotton-gins in operation and to gin cotton. This was done under the prize-laws."

Much bragging was done by the navy as to the amount of prize money they would receive, and needless to say this caused a great deal of bad feeling on the part of the army. All the general officers urged Banks "to arrest these men, make war upon them," upon the ground that they were engaged in a business which did not belong to the navy at all. Banks endeavored to quiet the tense atmosphere by warning his officers that Admiral Porter was doubtless "acting under instructions from the Navy Department, and it is not my business to interfere with him."

The army and navy forces which engaged in this expedition were not under joint command. Neither Banks nor Porter could give orders to the other.

Admiral Porter, in caustic words meant to burn the army, frequently characterized the expedition as a cotton speculation. He attributed the failure of the operations to this cause. Nevertheless, the navy was far more aggressive in grabbing cotton than was the army, or even the private speculators.

Admiral Porter testified:

> I found below Alexandria a great deal of cotton, a large quantity of it belonging to the Confederate Government, marked X, which was their mark.
>
> I did not trouble the cotton until the Rebel General Dick Taylor commenced burning cotton above. I then seized all the cotton on the river, amounting to 3,000 bales of Confederate cotton. There was a great deal more belonging to private persons, a great many of whom were loyal, to the best of my knowledge. To them I gave a receipt for the cotton, marked it U.S.N., gave a description of it, its place of seizure, etc., so that the people could at any time identify their cotton, and obtain something for it if they were loyal. That was all I had to do with cotton on that river.

On one occasion Colonel Wilson, Banks' aide, was dining with Admiral Porter. This cotton-grabbing had ruffled Wilson's temper, especially as he had observed sailors going back into the country five or six miles from the river and seizing cotton on which they branded the letters "C.S.A.," and underneath, "U.S.N."

Wilson remarked to his host: "Do you know what the letters 'C.S.A.' and 'U.S.N.' stand for?"

"No," the admiral replied.

"They stand for Cotton Stealing Association of the United States Navy," Wilson said.

Doubtless the sting of the retort was alleviated by the mellowing influence of the piano and the wet-goods which the flagship carried.

Porter told the investigating committee that the only cotton of any amount which really got out of the country was that which he sent down—3,000 bales from Alexandria and 3,000 bales from Washita. Referring to the cotton seized by the army, he testified that every bale that Banks took into Alex-

andria, the "Quartermaster charged five or ten dollars a bale, I forget which, as freight for taking it to New Orleans; and what got down there I have understood went into the house of Weed and Co."

"It was well understood that it was a big cotton raid. . . . I know that cotton destroyed the whole expedition. If there had been no cotton we could and probably would have gone to Shreveport," Porter declared.

In answer to a question by a member of the committee, Admiral Porter stated that no cotton was seized by the navy more than 50 to 200 yards from the river. He said that on one occasion a team was sent into the country for about three miles for some Confederate cotton, but that the army was there ahead of the navy. "All the cotton we took was right on the river bank."

To the question as to whether or not people on the river began to burn cotton before any was seized by the navy, he answered: "Yes, Sir; we never touched a bale of cotton before the burning commenced. However, that made no difference to me, for I intended to take it any way."

The statements made by Admiral Porter presented matters which were quite controversial. Wilson had testified that the navy went back into the country six or seven miles and brought out cotton.

In connection with the activities of Casey and Co., Wilson said that Casey told him he had gone into the rebel lines to confer with the Confederate General Smith; that Casey was reputed to have had an understanding with Kirby Smith in regard to acquiring all the cotton in that part of the state. There was a rumor throughout Banks' army that arrangements had been made whereby Casey and Co. would pay Kirby Smith, for the account of the Confederate States, a percentage upon all the cotton the firm received, and that Kirby Smith was to fall back with the Confederate army until all the cotton was secured by Casey and Co.

Other incidences illuminate this controversy, as testified to by a river pilot named Withenbury, who for 25 years had been a steamboatman, principally on the Red River. He was

one of the pilots who reported to Admiral Porter to aid in navigating the fleet up the river from Alexandria. Withenbury told the committee that he had seen newly baled cotton taken out of warehouses in Alexandria, and the letters C.S.A. marked on one end and U.S.N. on the other, by men who appeared to belong to the navy. One day he observed some navy wagons driven into town with about 30 bales of cotton that he recognized as part of a lot, three miles from town, in which he had an interest. He told Admiral Porter the cotton belonged to him and the admiral suggested that "you better let me haul all your cotton in here." "I will give permission," Withenbury replied, "if you will let me have it." Porter told him he would get it in the course of time—after it had first gone to Cairo. It was in Cairo that the court sat which heard navy prize cases.

Withenbury preferred dealing with the army for the remainder of his cotton. Some 60 bales belonging to him were taken to New Orleans by the quartermaster where it was sold, and in due time the proceeds were turned over to the owner. Withenbury said he never did realize anything on the 30 bales which the navy sent to Cairo.

This same witness related a deal in cotton in which almost $100,000 was made by a fortunate and favored speculator. Withenbury said that the navy took from Mr. Tom Neal, living three miles below Alexandria, 215 bales of cotton and refused to give him a receipt for it. Failing to get a receipt, Neal sold to Mr. Halliday, who was a frequent visitor aboard the flagship, the "chance" of it for $6,000. The witness testified that he was told these things. In the following June Withenbury was in Cairo trying to get payment for his cotton taken by the navy, and there met Halliday. He asked Halliday how he came out on the Neal cotton. Halliday said the United States Marshal had sold the Neal cotton as prize before he got home, but that the navy had allowed him to select 215 bales of other cotton in substitution. Halliday then pulled out his memorandum book and showed Withenbury the weights of the bales. This cotton was sent to New York for sale, and Withenbury said he afterwards learned that Halliday got over $105,000 for it.

Withenbury said:

> In another instance, I knew the marines or sailors from the gunboats to go to Mrs. Crosby's cotton-gin, where she had a large amount of seed cotton (unginned), and work the gin with navy mules, and gin and bale a number of bales of cotton, which bales were brought to Alexandria, three miles. This cotton was pointed out to me by Admiral Porter, who remarked to me that 'Jack made very good cotton-bales.'

How much confidence can be placed in Withenbury's testimony I shall have to leave to the reader. He told the committee he had always been a Union man, and that the week before General Butler took New Orleans in 1862, he had been proscribed as such in a New Orleans paper, which referred to him as "a man dangerous to the Confederacy." "The tree was picked out to hang me on," he informed the committee. He escaped with his life because of his ability to talk the rebels out of their intentions and to convince them of his loyalty to the South.

Efforts were made by citizens of Alexandria, Withenbury testified, to induce Dick Taylor to rescind the order given by him to burn cotton. "Don't ask me," Taylor replied to the Alexandrians, "General Banks is coming with his army of occupation; make your peace with him. If he respects your rights, I certainly shall."

The delay at Alexandria occasioned by the low water vexed the soul of every sailor and soldier. So little water was contrary to all natural laws. Not in 20 years had the Red River failed to rise in the spring. Water and cotton were feverishly discussed by groups of officers, and on the streets but little else was talked of by the inhabitants. "Every 30 minutes in the day" anxious inquiry was made. "Is the river rising? Is it falling?" Staff officers from Banks' headquarters asked the opinion of every fleet officer they encountered. When they met Admiral Porter he laughingly reassured them: "Don't worry, we'll go through; I can run my boats wherever the *sand is damp.*" Porter knew that the success of the expedition depended upon the cooperation of the navy. He offered his gunboats without reservation. "I will go through with you even though I lose every boat."

This cooperation was promised despite the fear felt by all the captains of the fleet that calamity awaited them. They could not figure out why this river carried so little water, while other streams in the South Mississippi basin were at flood stages. "Why should there be so little rain along the Red River?" was an unanswerable question—and they feared. But the navy could not turn back and give "fear" as its excuse. It knew that the army must make the attempt to reach Texas by way of Shreveport, and Porter was determined to carry on as long as there was a trickle of water where "the sand was damp." He dispassionately justified his decision by declaring to the committee:

> There was a communication from General Halleck stating that the department had notified him that the navy would cooperate with General Banks; and therefore as long as a gunboat could float I should do what I could to help him.
>
> I could not let the army go off saying that the success of the expedition depended upon my cooperation. There was but one thing to do under those circumstances—to run the risk of losing the boats. I had told General Banks myself that it was impossible to go up. Still he urged it, and I told him I would do all I could.

Impatient to advance, Banks anticipated by a few days the passage of the gunboats over the rapids, and set the army in motion for Natchitoches, 80 miles distant from Alexandria by land. The more advanced troops reached this old French Creole town on the 2d and 3d of April.

The shortest and only practicable route from Natchitoches and Grand Ecore to Shreveport. 100 miles away, was the old state road by way of Pleasant Hill and Mansfield. Much of the distance was through barren, sandy country or unbroken pine forests. The serious part of the expedition was entered upon when the main body of the army left Grand Ecore for Shreveport on the 6th of April. Some of the transports and gunboats got away the following day. T. Kilby Smith's division, numbering about 2,500 men, accompanied the fleet to guard it against shore-line attacks. A detachment of almost 2,000 men had been left at Alexandria as a guard and to handle

supplies, so that the troops who marched from Natchitoches and Grand Ecore, under the immediate command of General Franklin, numbered about 17,000 men.

General Lee, at the head of three of his four brigades of cavalry, moved out on the Shreveport road on the 6th of April. His fourth brigade was detached to guard the flanks of the infantry column, which would follow the cavalry. Lee had with him from 320 to 350 wagons in which were carried ten days' rations for the men of his division, and three days' forage for his animals, together with a supply of ammunition and some camp and garrison equipage. His orders from General Franklin were to clear the road leading to Shreveport of hostile reconnaissance parties; attack the enemy wherever he found him in limited strength; but not to bring on a general engagement. That night he camped at Crump's Corners, 23 miles from Natchitoches.

The next day the march was resumed and after traveling 14 miles the cavalry reached Pleasant Hill. Here the country was densely wooded and the single road so narrow that it was difficult for wheeled vehicles to meet and pass each other. About three miles beyond Pleasant Hill a Confederate force of cavalry and mounted infantry was encountered at Wilson's farm. Lee ordered one brigade of cavalry to charge the enemy, and dismounted the other two brigades to fight on foot. The action lasted an hour and a half, when the Confederate advance body decided it would be wise to retire and join the main body.

From this battlefield Lee sent a message to Franklin saying the enemy was in force on his front and asking that a brigade of infantry be rushed to his support. Franklin sent a brigade forward, but for no apparent reason withdrew it before it had joined Lee. Probably he thought no action of importance was imminent, as he ordered Lee to proceed as far as possible that night with his whole train in order to give the infantry room to advance the next day.

When the Confederates withdrew from Wilson's farm, Lee followed them for several miles until at nightfall they took up a position beyond a bayou and ravine at Carroll's mill. The Federals bivouacked for the night, and an effort was made to free the road of the congestion caused by the train, as Lee

feared he might be overpowered in the morning and compelled to fall back. Room to park about a third of the wagons was found alongside the road; the others were turned around and parked in the road.

Another call was made on Franklin to send forward some infantry, as Lee realized he had driven the Confederates back to where their accumulated numbers were becoming quite a menace. Infantry was necessary for support, as the cavalrymen had to be dismounted to put them into the fight, and this resulted in a long, loose, irregular column of animals to lead and move about; and cavalrymen were not fit to fight on foot for any great length of time. Furthermore, the train stretched out for a distance of almost three miles, and required about one third of the cavalry to guard it.

At midnight of the 7th Franklin sent word to Lee that Banks was with him and that by Banks' orders a brigade of infantry was to move to the support of the cavalry at 3:00 A. M. This brigade arrived at the front at daylight on the 8th. Line of battle was formed and in a half hour the enemy was driven from his position at Carroll's mill. The Confederates fought a stubborn delaying action in their retreat, and had to be shelled and outflanked from one position to another. By 11:45 A. M. Lee's command had advanced five miles, reaching a point about four miles south of Mansfield.

At noon General Ransom came to Lee's position, leading a brigade of infantry which had been sent forward with orders to relieve the brigade previously sent to the front. Lee was engaged at the time in deploying his troops into line of battle near Sabine Crossroads, and retained both brigades. The artillery was put in position on the summit of a hill overlooking bare fields, and the cavalry moved to protect the flanks. The wagon train was halted about a half mile in the rear.

At this moment General Banks, accompanied by his staff, appeared on the field of battle. Lee informed Banks that the Confederates were in front of him in great strength, and that he must fall back immediately or be heavily reenforced. Banks told him to hold on and that he would order more infantry to hasten forward. Meanwhile the Confederates of Dick Taylor's

command could be seen preparing for battle. The situation became more alarming when Lee observed that the enemy's battle line extended beyond his own on both flanks.

At 4 o'clock the Confederates advanced to open the battle. They were met with heavy fire of canister and musketry for perhaps 20 minutes, but their forward progress was not slackened and they charged straight into the Federal line, and at the same time closed in on both flanks. Lee's line crumbled before this superior force and in a flash began a desperate flight from the field. During the action artillery horses and drivers were shot in such numbers that most of the guns were abandoned. Conflicting orders were given to the train. Some staff officers ordered it to turn and flee. Others ordered the wagons to remain where they were, otherwise they would interfere with the infantry which was advancing by the road over which the wagons would pass in falling back.

The retreat became a rout. Many of the wagons got away, and a few of the guns. The mad rush continued for three miles before succor was encountered at Pleasant Grove, where General Emery had deployed some of his command. The line separated to give the fleeing troops passage through. The Confederates made a desperate attack on this line at 6 o'clock, but they were repulsed with terrible slaughter. The loss in the train was 156 wagons and about 800 mules. Sixteen guns were captured by the Confederates.

That night Banks called a council of war and it was decided that as A. J. Smith's command was at Pleasant Hill, eight miles to the rear, the army would fall back to that point during the night. Banks being uncertain as to what would occur next day, he ordered Lee with his cavalry to escort the trains of the infantry back to Grand Ecore.

The battle of Mansfield (Sabine Crossroads) is noted for the many blunders committed by the Federal leaders. If the various components of Franklin's infantry had been in a solid column as he should have required the brigades to march, instead of being scattered for miles along a single road, he could have reenforced the line of battle in time to ward off disaster. Despite Franklin's injunction to Lee to push forward his train on the morning of the 8th, Lee should not have permitted it to

be so close in his rear when he deployed at Sabine Crossroads in the presence of a force known to him to be so considerable that a major engagement was inevitable.

Lee guessed more accurately than did Franklin as to when and where the resistance of the enemy would tighten up, and had demanded additional troops to strengthen the covering force under his command. Banks said to Franklin: "Certainly send forward a brigade of infantry to assist him in his march. Cavalry for celerity, artillery for force, and infantry for solidity." It was with reluctance that Franklin furnished Lee this supporting infantry, as he feared so large an advance force might become seriously involved and bring on a general engagement under unfavorable conditions. It was just this very situation which occurred.

When the junction with A. J. Smith's command was effected on the morning of the 9th at Pleasant Hill, a carefully prepared line of battle was formed and the attack of the enemy awaited with much trepidation. Light skirmishing occurred during the afternoon, and at 5 o'clock the troops under Kirby Smith attacked in force. In the early stages of the battle the Confederates outflanked the Federals and were meeting with success, but by a timely use of the reserves, all of which were put into the line, A. J. Smith's troops drove the enemy from the field. The pursuit was continued until night compelled a halt.

There was nothing to prevent a forward movement the next morning, in Banks' opinion, and he gave orders to the army to make preparations to advance early on the 10th. The infantry trains, which on the day of the battle were moving back to Grand Ecore, were directed to turn about and follow the army the following morning. Such a decision was proper under the circumstances; unfortunately Banks did not possess the fortitude to adhere to it. Franklin and all the general officers of the 19th Corps put up a vigorous protest. They said the army was licked for the time being and would have to recuperate. A conference of all general officers was called by Banks, and with but few exceptions they demanded that the army retire to Grand Ecore at once, there to "recover from the costly defeat on the 8th and the equally costly victory on the 9th."

Apparently Banks was none too averse to comply with the demands made by most of his generals. He gave the order that night for the withdrawal; he quit the campaign without any thought of his prearranged rendezvous with Taylor and the fleet at the head of Loggy Bayou. The dead were buried where they fell; the wounded were carried to the best improvised hospitals that could be found; the forward movement of the expedition was over. The field of battle was abandoned by both the Federal and Confederate troops. The dead were left in possession.

Later Banks attempted to justify the sudden termination of the campaign by attributing his action to a demand made upon him by General Grant for the return of A. J. Smith's command of 10,000 men. In a dispatch written by Grant on the 15th of March, which Banks had received by special messenger on the 26th at Alexandria, Grant sent these instructions:

> Should you find that the taking of Shreveport will occupy 10 or 15 days more time than General Sherman gave his troops to be absent from their command, you will send them back at the time specified in his note of —— March, even if it should lead to the abandonment of the main object of the expedition.

A. J. Smith had no objection to remaining with Banks as long as the expedition went forward. When Smith's men saved the day at Pleasant Hill by gallantly charging and repulsing the enemy, Banks rode up to him and shaking him by the hand remarked: "God bless you, General! You have saved the army." Smith was one of the few general officers at the council of war who wanted the expedition to go forward. As a matter of fact it was not until the 23d of May that his command reached Vicksburg, having been gone 74 days.

A commander always makes a mistake when he turns over the major part of his force to a subordinate, who later fails in the accomplishment of his mission. The subordinate is liable to become caustic in his reports and testimony in order to excuse his failure. Franklin told the investigating committee, in describing how the infantry was fed piecemeal into the position at Sabine Crossroads on the 8th of April: "The whole thing

ran on this way: first a brigade was defeated, then another brigade was sent up and was defeated, and then a division went up and was defeated."

The cavalry commander had asked Franklin to put the cavalry train behind the infantry. Franklin refused to do this and told Lee it was his business to take care of his own train. Franklin testified before the committee that there were several open places along the road to the battle-ground where a train much larger than the cavalry train could have parked.

In the opinion of Franklin, General Banks rated low as a military leader. He told the committee:

> From what I have seen of General Banks' ability to command in the field, I was certain that an operation dependent upon plenty of troops, rather than upon skill in handling them, was the only one which would have probability of success in his hands.

The abrupt termination of the march toward Shreveport and the return of the army to Grand Ecore left a large part of the fleet in a precarious position. Porter had arranged a rendezvous with Banks at Springfield landing, more than 100 miles by water from Grand Ecore, and 30 miles from Shreveport. The naval expedition included one gunboat, four or five tin-clads, and a number of vessels to carry troops and stores. On his arrival at Springfield Landing, Porter found that Dick Taylor had put one over on him. He described the ludicrous incident in a letter to Sherman written the 16th of April:

> When I arrived at Springfield Landing I found a sight that made me laugh; it was the smartest thing I ever knew the rebels to do. They had gotten that huge steamer, New Falls City, across Red River, one mile above Loggy Bayou, 15 feet of her on shore on each side, the boat broken down in the middle, and a sand-bar making below her. An invitation in large letters to attend a ball in Shreveport was kindly left stuck up by the rebels, which invitation we were never able to accept.

Upon the withdrawal of the fleet this obstacle was blown up and removed by the Confederates in less than two days' work.

When the navy and transports reached Springfield Landing, troops were sent ashore to reconnoiter and to be on the lookout for couriers from the army. A party of cavalry arrived on the 10th, bringing information that Banks had been defeated, whereupon Porter determined to return to Grand Ecore without delay. Two large boats which had accompanied the convoy had given much trouble in getting them upstream. On the return journey they came near causing the loss of the fleet. Porter testified that these boats belonged to the Army Quartermaster. "I know that there were individuals there with permits from General Banks to go into the country and purchase cotton. And men went out and purchased cotton as we went up, calculating that these boats would bring it down." E. Kilby Smith, commanding the troops accompanying the fleet, proposed to burn the boats, but Porter insisted that he would get them out, cost what it may.

While the army camped at Grand Ecore for the second time, Banks had to decide whether or not the campaign to enter Texas by way of Shreveport would be permanently abandoned. That part of the fleet which had ascended the river returned to Grand Ecore on the 16th of April. The same day General Smith wrote Banks a letter stating, in substance, that the time given him by Sherman to remain with the expedition expired on the 16th, and that his orders were imperative to return to the Mississippi. Banks told Smith that it was impossible for him and his 10,000 men to leave then; that without his command neither the army nor the navy could extricate themselves; and that he would take the responsibility of refusing to recognize Sherman's orders. Smith replied: "You must give it to me in writing," which Banks did.

Reference has been made to the letter of instructions from Grant written on March 15 and received by Banks at Alexandria on the 26th, before his departure for Shreveport, in which Grant told Banks to comply with Sherman's instructions for the return of Smith's command, as given in Sherman's letter of March, date blank. It seems, however, that later Banks forgot he had ever received Sherman's letter. All that he knew of Sherman's wishes in the matter he had learned, according to his testimony before the committee, from their conversation at the conference in New Orleans. Banks' recollection of the

understanding arrived at was that a careless reference had been made to the use of Smith's command for 30 days after their arrival at Alexandria, and that if they were needed for a longer period in order to bring the operations to a successful termination, they could be retained.

Banks wrote to Grant from Grand Ecore on the 13th of April that "an advance will be commenced immediately upon a line differing somewhat from that adopted first, and rendering the column less dependent upon a river proverbially as treacherous as the enemies we fight." The same day he sent a second letter to Grant in which it is clearly evident he knew that Smith's time with him should terminate on the 15th or 17th of April, but in which he stated his intention to hold the command until Shreveport was taken. He held to this determination for a week, during which the river was getting lower and lower every day, until finally both he and Admiral Porter had to concede that it could no longer be navigated to Shreveport by the most shallow boats, and that it would even be a hazardous task getting the vessels back to Alexandria.

It was at this time that further operations in the campaign were definitely abandoned. On the 20th of April the army moved from Grand Ecore to Natchitoches, and two days later it took up the line of march for Alexandria, where it arrived on the 25th and 26th of the month.

During the period that the army lay at Grand Ecore, recovering from the blow inflicted upon it at Sabine Crossroads and engaging in bitter recriminations, Admiral Porter, after picking up the gossip prevalent among the troops, lost all of the little remaining confidence he had in General Banks as a military commander. As soon as Porter reached Alexandria he wrote a letter to Sherman in which he said:

> You know my opinion of political generals. It is a crying sin to put the lives of thousands in the hands of such men, and the time has come when there should a stop be put to it. This army is almost in a state of mutiny and not fit to go into a fight. They would follow A. J. Smith, though, anywhere.

Porter wrote a second letter to Sherman two days later:

> I hear that when the general and staff arrived at Pleasant Hill he had lost all command of himself. I do not wonder at that. An educated soldier may be cool and pleasant enough in the hour of victory, but the true general is best known in the hour of defeat. General Banks lost all his prestige, and the men talked so openly of him that our officers had to check them and threaten to have them punished.

About the time that Porter wrote these letters to Sherman, two letters censuring Banks were sent to General Grant at Culpeper Court House. Grant referred to these communications in a letter to Halleck dated the 25th of April:

> I have just received two private letters, one from New Orleans, and one (anonymous) from the Thirteenth Corps, giving deplorable accounts of Banks' mismanagement. His own report and these letters clearly show all his disasters to be attributable to his own incompetency.

In another communication to Halleck, Grant said: "I have been satisfied for the last nine months that to keep General Banks in command was to neutralize a large force, and to support it most expensive." He asked that Banks be relieved, and Halleck referred the request to the President. Mr. Lincoln's reply was that he "must await further information before he could act in the matter." It was just about two weeks after this incident that Welles noted in his diary Mr. Lincoln's remark that he had rather cousined up to Banks, but that for some time past he had begun to think he erred in doing so. General Banks was a personal friend of the President, and he had strong political supporters in and out of Congress whom Mr. Lincoln feared to offend.

We can refer to one other of the many who cast Banks' fishing lines into the Stygian pool. Grant sent General Hunter, one of his staff officers, to Banks' headquarters for the purpose of investigating and reporting on the situation. Hunter joined Banks at Alexandria on the 28th of April. Their conference lasted throughout the day, and in the evening Hunter departed by boat for New Orleans. After looking the situation over in that city, on the 2d of May he sent his first report to Grant. It was a red-hot one and the reader had better discount it somewhat:

> The Department of the Gulf is one great mass of corruption. Cotton and politics, instead of the war, appear to have engrossed the army. The vital interests of the contest are laid aside, and we are amused with sham State governments, which are a complete laughing stock to the people; and the lives of our men are sacrificed in the interests of cotton speculators.

The State government set up in New Orleans under the protection of the Union army was deserving of all the ridicule that could be heaped upon it, but it was done by the President's orders. Similar action was taken in Florida, South Carolina, and others of the Confederate States. Mr. Hahn had been inaugurated Governor of Louisiana the 5th of March preceding, following an election held on the 22nd of February. Delegates were sent to the Baltimore convention, seated and permitted to vote. The first vote in the convention on June 8 was unanimous for Mr. Lincoln. Missouri switched its vote from Grant to Lincoln before the call of delegates was completed.

The fleet suffered several casualties on its return to Alexandria. The Eastport, the heaviest of the gunboats, on the first day either struck a torpedo or ran on a sharp snag, and sunk in a very short time. Porter went down to Alexandria and brought up two pump-boats, and succeeded in getting the Eastport up and moving. But its release was for only a short time. It drew more water than there was in the river, and after grounding seven or eight times it finally struck and could not be hauled off. Porter gave the order to blow it up. A sharp musketry fire from Confederates lining the shore caused a number of casualties among the crew before they could escape from the doomed vessel.

Knowing that only tin-clads were now left in this part of the river, Confederates were most active in harassing them by the fire of field pieces. About 25 miles down from where the Eastport was destroyed, the field artillery caught up with the fleet at a bend in the river and opened on it from the shore with 19 guns. Porter told the committee that,

> In four minutes' time, by the watch, I lost on my vessel 25 officers and men, killed and wounded, out of 50 officers

> and men, and had 34 shots put through my vessel, and I had another vessel badly riddled. We fought our way past the battery, and I got in rear of the rebels, and opened upon them with one gun with shrapnel and canister, and drove them from their guns. In that way I managed to get my vessels down. I knew our army must be in full retreat, or the rebels would not have brought that battery where our men could have got at it.

Porter then gave the committee a colorful description of conditions as he found them upon his arrival in Alexandria. He testified:

> When I got to Alexandria, I found the army in a great state of stampede. I did not see anything to be frightened at myself; but the army was going to clear out at once and go down the river. I told General Banks that that was out of the question; that we must do something to get the fleet down. Colonel Bailey had suggested the building of a dam, but they hooted at it, and so did all the Engineers. There was the most perfect stampede that I ever saw in an army that was in perfect preparation to go into battle.
>
> I wrote to General Banks pretty stiffly on the subject, and told him that if he did go and desert the fleet, the people of the United States would never forgive him as long as he lived; that he could see from the tone of the Northern press what feeling there was; and that the only hope of redeeming the disasters that had already befallen the army was to get the fleet out of the predicament it was in by some masterly move.

This predicament was indeed serious. Just above Alexandria were two rocky falls, where the water was so shallow that not one of the vessels beyond could pass over them. That such a situation might arise had been predicted several weeks before by Lieutenant Colonel Bailey, Military Engineer of the 19th Corps, who had proposed to Franklin the day after the Sabine Crossroads fight that he be prmitted to increase the depth of the Red River by constructing one or more dams. He told Franklin what he had done during the campaign at Port Hudson, when the steamers Starlight and Red Chief had been captured by Grierson's cavalry in Thompson's Creek. The bed of the creek was nearly dry and the steamers were sunk several feet in the sand. After the capture of Port Hudson, Colonel Bailey

constructed wing-dams, which by raising the water lifted the steamers from the sand and floated them out of the creek into the Mississippi.

After the last mishap to the Eastport that resulted in her being destroyed, Franklin gave Bailey a letter to Porter so that he might have an opportunity to communicate his plans to the admiral for the construction of a series of dams above Alexandria. Nothing came of the interview, but a week or so later, on the 26th of April, Bailey approached the admiral a second time with a stronger presentation of his plans and pleas. By this time it was apparent that all the vessels then above the rapids at Alexandria would be lost unless some plan were adopted to raise the water, and both Porter and Banks agreed to let Bailey go ahead with his "visionary" scheme.

That Porter placed but little confidence in Bailey, and had none left in the army, is evidenced in a confidential letter which he wrote to Secretary Welles on the 28th of April:

> Unless instructed by the government, I do not think that General Banks will make the least effort to save the navy blockaded here. The following vessels are above the falls and command the right of the town: Mound City, Louisville, Pittsburg, Carondelet, Chillicothe, Osage, Neosho, Ozark, Lexington and Fort Hindman.
>
> An intelligent general would get us out of these difficulties, but I see no prospect of it now. If left here by the army I will be obliged to destroy this fleet to prevent it falling into the enemy's hands.
>
> I shall not hesitate to sacrifice myself for the public good, and whatsoever may befall me, my name shall not go down dishonored to posterity.
>
> There is no foreseeing what other calamities may arise from the errors of one man who, absorbed in his own interests, and diseased with political aspirations, cares little or nothing for the lives of those he has sacrificed, or thinks of anything but the effect this may have upon his future career.

Admiral Porter's morale was at low ebb when he wrote this letter. The Red River seemed to await the opportunity to vanquish him. He had little confidence that Bailey or any other individual could save him. Two days later, when Banks put at the disposal of Bailey three thousand men for the speedy

construction of the dam, things looked less ominous. "There seems to have been an especial Providence looking out for us in providing a man equal to the emergency," Porter wrote to Welles after the frightful nightmare had passed into history.

The width of the Red River at the point where the dam was built was 758 feet, and the depth of water from four to six feet. The current was very swift, running about nine miles per hour. To provide material for the dam all the neighboring steam-mills were torn down; a regiment of Maine men was set to work felling trees; teams were moving in all directions bringing in brick and stone; quarries were opened; flatboats were built to transport stone; "and every man seemed to be working with a vigor I have seldom seen equalled, while perhaps not one in fifty believed in the success of the undertaking."

The work was commenced by running out from the left bank of the river a tree dam, made of the bodies of large trees, brush, brick and stone, cross-tied with heavy timbers, and strengthened in every way that ingenuity could devise. This extended about 300 feet into the river. From the right bank cribs filled with stone were built out toward midstream. Between the ends of the tree dam and the crib dam a considerable space was left, which was partially closed by three great coal barges, filled with stone, brick, and iron taken from foundries and sugar mills. Two of these barges were sunk at the end of the crib dam, and the third at the end of the tree dam. The space left open between the barges made a chute 66 feet wide through which the imprisoned gunboats were to be released.

The army worked feverishly day and night for eight days, and by the 8th of May the water had risen sufficiently on the upper falls to allow the Fort Hindman, Osage and Neosho to get down and be ready to pass the dam. In another day the river would have been high enough to enable all the other vessels to pass the upper falls. Unfortunately, on the morning of the 9th the pressure of water on the dam became so great that it swept away the two barges at the end of the crib dam, both of which swung in below and to the left hand side of the chute, where they grounded and held on the rocks.

Seeing this distressing accident, Admiral Porter jumped on a horse and rode to where the upper vessels were anchored, and ordered the Lexington to pass the upper falls and immediately

attempt to go through the dam. The Lexington succeeded in getting over the rocks just in time, the water falling rapidly as she passed over. She then steered directly for the opening in the dam, through which the water was rushing so furiously that it seemed as if nothing but destruction awaited her.

Porter gave a vivid description of these events in a letter to Welles written a week after their occurrence:

> Thousands of beating hearts looked on, anxious for the result. The silence was so great as the Lexington approached the dam that a pin might almost be heard to fall. She entered the gap with a full head of steam on, pitched down the roaring torrent, made two or three spasmodic rolls, hung for a moment on the rocks below, was then swept into deep water by the current, and rounded-to safely into the bank. Thirty thousand voices rose in one deafening cheer, and universal joy seemed to pervade the face of every man present.

The Lexington was followed through the chute by the Neosho, with all her hatches battened down and every precaution taken against accident. She did not fare so well as the Lexington, as her pilot became frightened as he approached the abyss and stopped her engine. For a moment her hull disappeared from sight under the water. Everyone thought she was lost. She rose, however, swept along over the rocks with the current, and escaped with only a hole in her bottom. The Hindman and Osage then came through without touching a thing. This left the four largest vessels and several smaller ones still above the falls.

Admiral Porter wrote that the accident to the dam, instead of disheartening Colonel Bailey, only induced him to renew his exertions, after he had seen the success of getting four vessels through. Bailey went up the river about a mile and a half and constructed two wing-dams, one from each shore, above the rocks, and a bracket dam from the left shore, just below the rocks. This latter dam was proposed and constructed by Lieutenant Colonel Pearsall, assistant Engineer, in six hours from the time of its commencement.

The work at the upper falls was accomplished in three days, and on the 11th the Mound City, Carondelet and Pittsburg passed this hazardous point. To aid them in getting over

the rocks, hawsers were run out from the gun-boats to the shore and these manned by a force of 3,000 men. Enlivened by a band of music, this army of men dragged the boats over the bottom until they floated in the deeper water below. The next morning the Louisville, Chillicothe, Ozark and two tugs passed over without accident, except the loss of one man, who was swept off the deck of one of the tugs. By 3 o'clock that afternoon the vessels were coaled, ammunition that had been removed replaced, and all steamed down the river with the convoy of transports in company.

Great praise was given to Colonel Bailey by Admiral Porter for his initiative and persistence. He wrote to the Secretary of the Navy:

> Words are inadequate to express the admiration I feel for the abilities of Lieutenant Colonel Bailey. Under the best circumstances a private company would not have completed this work under one year, and to an ordinary mind the whole thing would have appeared an utter impossibility. Leaving out his abilities as an Engineer and the credit he has conferred upon the country, he has saved to the Union a valuable fleet, worth nearly two million dollars.

Porter had kind words for Banks also, and it is a pleasure to reproduce them. In his letter to Welles he said:

> To General Banks personally I am much indebted for the happy manner in which he has forwarded this enterprise, giving it his whole attention night and day, scarcely sleeping while the work was going on, attending personally to see that all the requirements of Colonel Bailey were complied with on the instant.

I would like to leave General Banks at this point, where deserved praise is given following so much censure, but the story is not yet complete. A passage of words between General Dwight, chief of staff for General Banks, and A. J. Smith must be recorded.

On the 10th of May Dwight wrote A. J. Smith a sharp letter, chiding him for not being ready to move his troops from Alexandria as had been previously ordered. Smith had not yet taken the public property belonging to his corps aboard the

transports assigned to him, and until he had done this he refused to permit any other government property to be loaded. Dwight wanted the space for cotton and sugar, and was much concerned to see that these speculative commodities were loaded. Smith flared up and came back with a peppery broadside in a letter to the chief of staff.

> In reply to your note of this date I have to state that my command is and has been in readiness to move whenever called upon, day or night. I control my own boats, and will put my property on board when I please. If the boats which you have had at this landing during the last ten days had been used in the service of our country instead of being bartered to private speculators, you would have had no cause of complaint in this direction, but could have shipped in ample time all the public stores pertaining to your command. If you destroy any government stores at this point, let the responsibility rest on your shoulders, who appropriated the transports in port for private purposes. This army knows well that I am not responsible for any of the mishaps that have occurred during this campaign.

The army took up its line of march for Simsport on the 12th of May, immediately following the release of the gunboats. Coming down the river the navy performed the unusual duty of acting as flank and rear guard for the marching columns. Frequent skirmishing took place between the covering forces and those in pursuit, but it was not until the 16th, at Mansura, that an engagement of any magnitude occurred. There was another engagement at Yellow Bayou two days later.

The army reached the Atchafalaya at Simsport on the 18th of May. Here Colonel Bailey's exceptional abilities were again utilized in constructing a bridge of steamers, 600 yards long, by which the troops crossed the Atchafalaya that night and the following day.

The safe crossing of the Atchafalaya brought the Red River Expedition to an end. It terminated, also, General Banks' independent command, as General E. R. S. Canby was placed in charge of the newly created Military Division of West Mississippi, with headquarters at Natchez.

In the fall of 1864 General Banks went to Washington, hoping to salvage a little of his lost military reputation. He called on the Secretary of the Navy and asked if there was anything specific in the rumor of accusations made against him. Welles said there had been complaints about cotton speculation and military errors committed, all of which was to be expected when reverses occurred. Banks wanted to know if Porter had done more than gossip; whether or not he had become his accuser. Welles' reply was that several "naval officers had expressed themselves dissatisfied, some of them stronger than Admiral Porter; that others besides naval officers had also complained."

The investigating committee reported in its findings that while the object had in view by General Halleck in ordering the expedition was a military one, with the expectation of accomplishing some important political result by the occupation of a point in Texas, the general commanding the expedition appeared to have had in view the two objects of establishing a state government in Louisiana, and affording egress for cotton and other products of that region. The committee was of the opinion "that the attention directed to the accomplishment of these objects exerted a most unfavorable influence upon the expedition."

No campaign of the Civil War produced so prolific a crop of poisonous quarrels as did this one. During the next twenty years charges and counter-charges of bad faith and incompetency were made. The bitterness engendered in 1864 ended only with the lives of those concerned. Shortly after the Sabine Crossroads fight, Lee was relieved by Arnold as chief of cavalry. Dick Taylor and E. Kirby Smith quarreled, although each retained his command. Franklin left the department with a feeling of resentment against both Banks and the navy. A. J. Smith and his subordinate commander, E. Kilby Smith, transferred their affection from the army to the navy. Banks and Porter renewed their differences when they appeared before the committee.

In the investigation much testimony was given that departed widely from the facts in the case; events were forgotten and

faulty recollections substituted for the truth. Unfavorable incidences were more or less distorted so as to be helpful to the narrator's military or naval reputation. The desire to praise self resulted in the damning of others. These conditions were characteristic of all the investigations conducted in this committee during the four years of its existence. The Cabinet, the Congress, the War and Navy Departments, and the press and public were always looking for scape-goats. No wonder that either with or without justice, many reputations were made or destroyed during the Civil War in the black pool that existed in the capital of our country.

A NOTE ON ABSENTEEISM AND PLURALISM IN BRITISH WEST FLORIDA

By CECIL JOHNSON

Among the many causes of inefficiency in British colonial administration of the eighteenth century, the twin evils of absenteeism and pluralism were not the least. As the patentee of several offices frequently did not come to the colonies, but used one or more deputies, and as a deputy often filled several posts, it may be said further that these twins were of the Siamese order. To the contemporary conception of an office as a vested right rather than a public trust may be attributed the paternity of such dubious offspring.

The royal colony of British West Florida furnishes interesting examples of the way offices were granted and regranted in a frontier province toward the end of the colonial period. As early as September 27, 1767, only three years after the establishment of civil government, Lieutenant Governor Montfort Browne complained to the Board of Trade of the inconvenience experienced because of patent officers who resided in England and lived off their salaries while they sent irresponsible deputies to perform their duties.[1] It will be worth while, perhaps, for us to examine the records.

On July 23, 1766, two royal warrants were issued directing George Johnstone, first civil governor of West Florida, to appoint Alexander Duncan as Clerk of the Crown and Clerk of the Common Pleas in the province under his jurisdiction.[2] Just two weeks previously Duncan had received a commission from the High Court of Admiralty as Judge of the Vice-admiralty for West Florida. Apparently he did not go to the colony, for a year later, by a deputation executed at London, June 30, 1767, he authorized Alexander McPherson not only to apply to Johnstone in his name for the commissions as Clerk of the Crown and Clerk of the Common Pleas but also to act for him

[1]Colonial Office Papers, Classification 5, Volume 575 (C.O.5:575), pp. 301-302, Library of Congress Photostats.

[2]C.O. 324-51, pp. 285-286, Florida State Historical Society Photostats.

in these positions as well as in that of Judge of the Vice-admiralty court.[3] McPherson already held the position as Register and Scribe of the Vice-admiralty court in West Florida by a patent from the High Court of Admiralty.[4] He proceeded to the colony and assumed the duties of his offices in July, 1768. On July 9, 1769, Montfort Browne, at this time chief executive of the province, appointed McPherson Register of the Court of Chancery.[5] Thus we see that this eighteenth century bureaucrat was in possession of five judicial offices—three by deputation from the same patentee and two in his own right. In 1772 he delegated the latter two to Donald McPherson,[6] who was or had been apprenticed to him in order to learn the "science of law."[7] Upon the death of Alexander McPherson in 1774 Governor Peter Chester appointed Andrew Rainsford as Register of the Court of Chancery, and divided the other four offices among Rainsford, John Allen Martin, and Elihu Hall Bay until the pleasure of the home government and the original patentee, Alexander Duncan, could be learned.[8] The latter, Governor Chester said he had been informed, was at that time in the "East Indeas",[9] about as far distant, it might be added, from West Florida as it was possible to be.

Another series of grants and deputations is no less involved. A sign manual of May 2, 1764, directed Governor Johnstone to commission James MacPherson as Provincial Secretary and Clerk of the Governor's Council, and this was done November 2, following.[10]

MacPherson came to West Florida, but apparently did not remain long, as these offices were held by several different deputies before 1770.[11] In that year Philip Livingston, Jr., of the famous New York family, was on the point of coming to the province as Governor Chester's private secretary. By a paper executed at London, MacPherson, by this time also Register of Grants, entered into an engagement with him whereby

[3]Record of His Majesty's Sign Manuals, Patents, Commissions, and Other Papers Passed under the Broad Seal of His Majesty's Province of West Florida, pp. 122-131 (hereinafter cited as West Florida Commissions); this manuscript volume which came to the Library of Congress from the General Land Office contains about two hundred warrants and commissions; it is a mine of information on the constitutional history of the colony.

[4]West Florida Commissions, pp. 120-122.

[5]*Ibid.*, p. 117.

[6]*Ibid.*, pp. 159-160.

[7]Indenture, C.O. 5:613, pp. 141-143, Library of Congress Photostats.

[8]West Florida Commissions, pp. 188-208.

[9]Chester to Lord Dartmouth, Sept. 11, 1774, C.O. 5:591, pp. 427-430. Transcripts in Mississippi Department of Archives and History.

[10]West Florida Commissions, pp. 1-4. So far as this writer knows, he was not a relative of Alexander McPherson.

[11]*Ibid.*, pp. 35, 38, 781.

Livingston was made deputy for the three offices, though the salaries from the parliamentary support fund were reserved to the original patentee.[12] In 1775 this agreement was renewed and Livingston, who had become an important figure in the province, was given the right to select deputies to help him.[13] Livingston made Richard Combould deputy clerk of the Council in 1777, but in the following year Elihu Hall Bay was made deputy for all three offices.[14] Elihu Hall Bay, by deputation, passed the offices on to John Bay (probably his son) in 1780.[15] Thus James MacPherson held three offices of the king, Livingston held of MacPherson, Elihu Hall Bay of Livingston, and John Bay of Elihu Hall Bay. This chain of grants and deputations ended with the resignation of MacPherson on September 1, 1780,[16] and the fall of the colony to Spain the following year.

The examples cited above are perhaps the most flagrant the colony offers; but they are by no means isolated. While absenteeism and pluralism cannot be blamed for all the ineffectiveness of colonial government, yet such practices inevitably tended to lower morale and efficiency and to deprive administration of strength and virility.

[12] *Ibid.*, pp. 109-111. Fees, of course, were a lucrative source of income. See article by this writer, "The Distribution of Land in British West Florida, in "*The Historical Quarterly*, XVI, pp. 540-553 (October, 1933), especially note on page 550.

[13] West Florida Commissions, pp. 214-217. Livingston's enemies later claimed that he held, in his own right or by deputy, no less than nine offices.

[14] *Ibid.*, pp. 282-283, 296-306.

[15] *Ibid.*, pp. 351-353.

[16] Resignation in C.O. 5:595, pp. 931-934, Mississippi Transcripts.

A SUPPRESSED CO-OPERATIONIST PROTEST AGAINST SECESSION

By ROGER WALLACE SHUGG

When the Convention of 1861 resolved that Louisiana should withdraw from the Federal Union, seventeen of the one hundred and twenty-nine delegates stood opposed. While these dissenters were allowed to explain their position, the Convention refused to enter such remarks upon its minutes, and they cannot be discovered in either the manuscript or published journal of that fateful occasion.[1] But the statement made by James G. Taliaferro, Co-operationist delegate from the parish of Catahoula, found its way into the columns of the Convention's newspaper, the New Orleans *Daily Crescent*.[2] There it has escaped the notice of every historian except John Rose Ficklen, who did not fully appreciate its significance, but casually quoted a sentence to show that when Taliaferro declared Louisiana's interests lay with the border States, he "held the true theory from a commercial standpoint, (but) completely ignored the slavery question."[3] So far as it goes, this is an acute observation, and may serve to indicate the importance of the only protest we have today that was raised on the floor of the Convention against secession. There were so many other trenchant points in this protest that it deserves to be exhumed from the *Crescent* and rendered as accessible as the journal from which it was excluded.

For us the chief significance of Taliaferro's protest lies in the fact that it reveals the strongest stand taken by an Co-operationist opponent of secession. It provides us, therefore, with what the natural scientist might call "control," by which we may ascertain the extreme limit of Co-operation in Louisiana. Not one of his colleagues, however sympathetic, endorsed the views of Taliaferro. Their position was made perfectly

[1] *MS. Proceeding of the Louisiana State Convention*, etc., (Louisiana Historical Society), pp. 39-40; *Official Journal of the Proceedings of the Convention of the State of Louisiana* (New Orleans: J. O. Nixon, 1861), p. 18.

[2] Jan. 31, 1861. It was printed apart from the report of the regular proceedings.

[3] *History of Reconstruction in Louisiana through 1868*, Johns Hopkins University Studies in Historical and Political Science, Ser. XXVIII, No. 1 (Baltimore, 1910), p. 22.

clear in the newspapers,[4] and in the resolution that Rozier tried to substitute for immediate secession. Let the slaveholding States convene at Nashville to amend the Constitution for their protection, and secede in a body if the North refused to accept these amendments.[5] This was the whole policy of Co-operation in Louisiana.[6]

While Taliaferro voted for Rozier's resolution, it is not likely that he would have followed a defeated Nashville convention into secession. Of the seven irreconcilable Co-operationists who finally refused to sign the ordinance of secession,[7] Taliaferro was the most radical. All the others had favored Fuqua's motion for an Alabama convention of slave-holding States to co-operate in the immediate establishment of a Southern confederacy.[8] This was the last stand of the Co-operationists after Rozier's motion had been defeated. Only Taliaferro, on this occasion joining the strange company of immediate secessionists, voted in the negative. He was to the bitter end a unionist, who admitted that the South had grievances, but believed that they could be redressed under the Constitution.

What distinguished Taliaferro from his colleagues was his old-fashioned nationalism. He was convinced that no State had a legal right to secede. Born in Virginia sixty-two years before the crisis of secession, and educated at Transylvania University in Kentucky, where he was admitted to the bar, Taliaferro made the acquaintance of Henry Clay and became his faithful disciple in party and philosophy. After moving to Louisiana late in the Thirties, Taliaferro was made a judge of his parish and a delegate to the Whig constitutional convention of 1852. Bitterly opposed to secession, he took no part in the War, and became a Republican with the advent of peace.[9] Because he presided over the radical constitutional convention of 1868,

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[4]See especially the *New Orleans Daily Picayune*, Dec. 20, 1860; *New Orleans Bee*, Dec. 24, 1860; *Alexandria Constitutional*, Jan. 2-6, 1861; and the "Jefferson" articles in the *New Orleans Daily True Delta*, Dec. 1860, from which excerpts are quoted by L. C. Kendall, "The Interregnum in Louisiana in 1861," *Louisiana Historical Quarterly*, XVI April, 1933), 190, 197-98.

[5]*Official Journal*, pp. 10-11.

[6]The *Picayune* was in error, Dec. 20, 1860, when it declared that "the difference between (secessionists) and co-operationists is on a point of time only."

[7]Besides Taliaferro, they were Hough, Garrett, Lewis of Orleans, Meredith, Pierson of Winn, and Stocker. Cf. *Official Journal*, p. 18, and the facsimile of the ordinance, with signatures, in *Report of the Secretary of State* (Baton Rouge: News Publishing Company, 1902), opp. p. 112.

[8]*Official Journal*, pp. 11-12, 16.

[9]*National Cyclopaedia of American Biography* (New York: Jas. T. White & Co., 1901), XI, 518.

and served on the State Supreme Court through the stormy years of Reconstruction, he has been remembered chiefly as an old and well-meaning, but grossly deluded scalawag.[10]

In his unflinching fight against secession, however, Taliaferro reflected the attitude of his parish, Catahoula. Although it had voted for Breckinridge by a small plurality in November, 1860,[11] it cast but a third of its votes for immediate secession two months later.[12] Probably not more than a fourth of the voters in Catahoula were slaveholders,[13] and nearly two-thirds of the plantations were less than fifty acres in size.[14] Like most small farming parishes in Louisiana, Catahoula did not welcome secession.[15]

There were many Co-operationists who agreed with Taliaferro that to embark upon so revolutionary a course was to jeopardize the material interests of Louisiana, and his protest echoes their economic and political forebodings.[16] Not a few Co-operationists, moreover, denied the authority of the Convention of 1861 to withdraw the State from the Federal Union without popular ratification.[17] But Taliaferro was the only delegate to defy the Convention to its face, and it was doubtless on this account that his protest was excluded from the journal.

Mr. Taliaferro's Protest[18]

(Editor's note). As an act of justice to a very worthy member of the Convention, we insert below his protest against the Ordinance of Secession, which the Convention declined to enter upon its journal. It is needless to say that we dissent, altogether, from Mr. Taliaferro's views[19]—scarcely one of his propositions, in our opinion, being correct or tenable, though, without doubt, honestly and sincerely entertained. But while

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[10]See Ficklen, *op. cit.*, pp. 18, 22, 194, 230; E. Lonn, *Reconstruction in Louisiana after 1868* (New York: G. P. Putnam's Sons, 1918).

[11]*Crescent*, Dec. 4, 1860.

[12]J. K. Greer, "Louisiana Politics, 1845-1861," *Louisiana Historical Quarterly*, XIII, 640-41.

[13]Computed on the assumption that every slaveholder voted in 1860. *U. S. Census, 1860, Agriculture*, p. 230.

[14]*Ibid.*, p. 202.

[15]See the *Picayune*, Dec. 15, 26, 1860; *Crescent*, Jan. 14, 15, 1861.

[16]See the *True Delta*, Nov. 3, 20, 1860.

[17]*Picayune*, Dec. 16, 1860; *Alexandria Constitutional*, Mar. 30, Apr. 13, 1861.

[18]Transcribed verbatim from the *Crescent*, Jan. 31, 1861.

[19]The *Crescent*, always radical, had taken an extreme secessionist view with the election of Lincoln. See the editorials conveniently compiled by D. L. Dumond, ed., *Southern Editorials on Secession* (New York: Century Co., 1931), *passim*.

we regret to differ so much with so estimable a gentleman, it is but simple justice that he should be heard in his own defense:

A PROTEST

The delegate from the parish of Catahoula opposes, unqualifiedly the separate secession of Louisiana from the Federal Union, and asks leave to place upon the records of the Convention his reasons for that opposition. They are as follow:

I oppose the Act of Secession, because in my deliberate judgment the wrongs alleged as the cause of the movement might be redressed under the Constitution by an energetic execution of the laws of the United States, and that, standing upon the guarantees of the Constitution, in the Union, Southern rights might be triumphantly maintained under the protection and safeguards which the Constitution affords.

Because, in secession I see no remedy for the actual and present evils complained of, and because the *prospective* evils depicted so gloomily may never come; and if they should, the inalienable right to resist tyranny and oppression might then be exercised as well and as successfully as now.

Because I see no certainty that the seceding States will ever be confederated again; none that the border States will secede at all; and if they should, I see no reliable ground for believing that they would incorporate themselves with the Gulf or Cotton States in a new government. I see no surety either that Texas would unite with them.

Because the Gulf or Cotton States alone, were they to unite in a separate confederacy, would be without the elements of power, indispensable in the formation of a government to take a respectable rank among the nations of the earth. Because I believe that peaceable secession is a right unknown to the Constitution of the United States; that it is a most dangerous and mischievous principle in the structure of any government, and when carried into the formation of the contemplated confederacy of the Gulf States, will render it powerless for good, and complete its incapacity to afford to the people permanent security for their lives, liberties and property. Because it is my solemn and deliberate conviction that the distraction of the Southern States by separate secession will defeat the purpose it is intended to accomplish, and that its certain results will be to impair instead of strengthening the security of Southern institutions.

Because the proper status of Louisiana is with the border States, with which nature has connected her by the majestic river which flows through her limits; and because an alliance in a weak government with the Gulf State east of her, is unnatural and antagonistic to her obvious interests and destiny.

Because, by separate secession the State relinquishes all its rights within the Government, it surrenders its equal rights to the common territories, to the vast public domain of the United States and the public property of every kind belonging to the nation. And for this reason I oppose secession as being emphatically submission.[20]

Because secession may bring anarchy and war, as it will assuredly bring ruinous exactions upon property in the form of direct taxation, a withering blight upon the prosperity of the State, and a fatal prostration of all its great interests.

Because the act of dissolving the ties which connect Louisiana with the Federal Union is a revolutionary act, that this Convention is, of itself, without legitimate power to perform. Convened without authority from the people of the State, and refusing to submit its action to them for their sanction in the grave and vital act of changing their government,[21] this Convention violates the great fundamental principle of American government, that the will of the people is supreme.

James G. Taliaferro,
Delegate from the Parish of Catahoula.

[20]Here Taliaferro tries to turn the tables on the immediate secessionists who had branded co-operationists as "submissionists."
[21]*Official Journal*, p. 17.

THE LOUISIANA CESSION AND THE FAMILY COMPACT

By RICHARD R. STENBERG

It will be recalled that Louis XV's motives in giving Western Louisiana to Spain (1762) have long interested historians. This cession was ostensibly to compensate his ally for the losses she had sustained in a war which had far from fulfilled the French promise to recover Gibraltar for her. There have been many conjectures as to France's ulterior motives, but none generally accepted. The once widely credited view that Western Louisiana was placed in Spain's hands to save it from England is groundless, for England had neither desired nor asked for more than the eastern part.[1] The "white elephant" theory—that France was eager to rid herself of a burdensome colony—seems little more tenable. For why had France, if anxious to be rid of Louisiana, not disburdened herself earlier by sale or territorial exchange?

Recently Professor A. S. Aiton has suggested that France gave the colony to Spain as a "peace bribe," as a price, to gain her acceptance of the peace terms stipulated by victorious England; and later writers have accepted Aiton's theory.[2] The present writer proposes to show that Aiton's theory, based on an erroneous assumption, breaks down at the critical point; and wishes to suggest as the chief motive for the cession the French desire to preserve and strengthen the Family Compact alliance with Spain, a motive which Professor E. W. Lyon, who accepts Aiton's thesis, considers merely secondary or incidental.

The military reverses of the Bourbon allies were so great by September, 1762, that France was ready (so Choiseul informed Ossun, the French ambassador at Madrid) to yield all

[1]This oft-repeated view probably had its origin in the fact that the French government, in order to appease public opinion in France, gave out that the cession of Louisiana had only been made to Spain to keep it from England—*i. e.*, that the act had been dictated by dire necessity. Henri Martin, *History of France* (translated from the French, Boston, 1866), XV, 540; French edition, XV, 595. The French historian E. Daubigny suggests plausibly that the transfer was "for some time kept secret so as not to inflame the national sentiment." *Choiseul et la France d'Outre-Mer Après le Traité de Paris* (1892), 2.

[2]A. S. Aiton, "The Diplomacy of the Louisiana Cession," in *American Historical Review*, XXXVI (1931), 701-720; W. J. Ghent, *The Early Far West* (1931), 31; C. L. Lokke, *France and the Colonial Question, 1763-1801* (1932), 1, 2; E. W. Lyon, *Louisiana in French Diplomacy, 1759-1804* (1934), 30, 31.

of Louisiana to England rather than forego immediate peace. A threat to bring England to the very border of Mexico was well calculated to bring reluctant Spain to acceptance of the British peace terms. On September 29 Charles III agreed to accept France's decision in the matter of making peace. France had little left to lose, and desired peace as much for her ally's benefit as for her own: the French minister at London, Nivernais, was strongly urging immediate peace on the ground that "the continuation of the war would involve nothing less than the loss of a great part of Mexico."[3]

Louis XV wrote to his Spanish kinsman on October 9:

> I wish with all my heart that Spain should not suffer from a war which Your Majesty's personal regard for me made her undertake. If New Orleans and Louisiana could be of use to Your Majesty to gain the restitution of Havana, or compensate Spain for the cessions that she would give the British, I offer the possession to her, and I would esteem it a great happiness to me in particular if certain cessions on my part could show Your Majesty my gratitude and my desire that the two crowns, according to the family compact, should make but a single body and that, whether in the continuation of the war, if our enemies force it upon us, or in the conclusion of peace, or after that peace, in the naval and military arrangements which we shall take, Europe will not be able to doubt the intimate union of the two monarchies.[4]

On the same day, October 9, Choiseul addressed Ossun a dispatch in which (while parading Louis's disinterested generosity in offering Louisiana, and declaring that *Louis considered the union of the two monarchies more useful to him than that colony*) he urgently pronounced for peace, assuring Ossun that "if it was necessary to make it at any cost, it was to work afterwards with Spain in the reconstruction of the marine of the two nations and resume hostilities at the end of five or six years, this time anticipating the enemy."[5]

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[3]A. Morel-Fatio and H. Léonardon (eds.), *Receuil des Instructions Données aux Ambassadeurs et Ministres de France* (1884-1929), XII bis, 343; André Soulange-Bodin, *La Diplomatie de Louis XV et le Pacte de Famille* (1894), 193.

[4]Soulange-Bodin, *op. cit.*, 195, 196.

[5]Choiseul stressed Louis's disinterestedness: "The minister of the king [Choiseul] made several observations of this abandonment relative not only to the attractiveness of the possession but also to the opinion which the nation has of its goodness and fertility. It was even represented to the king that Spain would find it a bargain to cede France the part of Santo Domingo which she possesses in exchange for Louisiana. His Majesty did not wish to bargain with the king his cousin and replied that as it was a question of Spain's interest or benefit he regarded it as his own." Choiseul also observed in this dispatch to Ossun: "It is not to be thought that the sacrifice of Louisiana would be of something mediocre. That colony is certainly the most beautiful and fertile of all those which France possesses in America." Soulange-Bodin, *op. cit.*, 196, 197; François Rousseau, *Règne de Charles III d'Espagne* (1907), I, 104.

Loath to consider his losses to England irrevocable, Charles III replied, in conversing with Ossun:

> If the English act in good faith, they will hold to the preliminaries in which the restitution of the conquests they have made from me in America is stipulated. If they have acted in bad faith, I have extensive means to employ against them, and when one has resources and courage, one does not cede and bend so easily. I am, thank God, in this case, and ever, far from thinking of making my peace alone or apart from France; . . . assure the king, my cousin, that it will never be seen that I abandon him. Thank him nevertheless on my part for the generous and obliging offers which he makes me.[6]

Charles in a personal letter to his royal "cousin" of October 22 distinctly declined to accept Louisiana.[7] Thus if Louis's offer of October 9 was intended as a "peace bribe," and if Spain so understood it, Charles in response not only sedulously ignored the fact but refused to accept the proffered gift. At this point Aiton's thesis breaks down: his assumption that Spain demanded Western Louisiana and procured its cession on November 3, 1762, as the price for placing her signature to the peace treaty with England on the same day is contradicted by the contemporary documents. By this date Spain had finally agreed to the inevitable necessity of accepting peace, so that there was no need for France to give her a bribe.

On October 23 Charles III had sent final instructions to Grimaldi, his ambassador at Paris, to sign the peace.[8] Choiseul and Grimaldi signed the peace preliminaries with the Duke of Bedford on November 3, 1762. On the same day Choiseul secretly offered Western Louisiana to Spain. That this territory had neither been asked for nor expected by Spain appears in the transaction. Just before they went to sign the peace

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[6]Ossun to Choiseul, October 18, 1762, in Soulange-Bodin, *op. cit.*, 195.

[7]Lyon, *op. cit.*, 28.

[8]Professor Aiton says (*op. cit.*, 718 and note) that Ricardo Wall, Spanish Chief Minister of State, instructed Grimaldi on October 23 to sign the peace with England *and to accept Louisiana*. In this assertion Aiton errs. Charles III had distinctly refused to accept Louisiana on October 22; and Grimaldi on November 3 disclaimed having any authorization to accept that province, so writing to his own government. W. R. Shepherd gives a version of Wall's instructions of October 23 quite different from Aiton's: namely, that Grimaldi was to listen to what was said concerning the French intention to offer Western Louisiana to England (to induce her to forego Florida) but was not to encourage France in this, as it was preferable that Spain lose Florida than have England on the border of Mexico. Beyond her anxious desire that England should not own Western Louisiana Spain seemed uninterested in Louisiana. Shepherd, "The Cession of Louisiana to Spain," in *Political Science Quarterly* XIX (1904), 449 and note.

In reply to a letter in which the present writer pointed out this discrepancy, Professor Aiton writes that a re-reading of Wall's instructions "reveals that I used too strong a term in saying that Grimaldi was 'ordered' to accept Louisiana" (letter from Aiton, dated June 4, 1935).

with Bedford, Choiseul called Grimaldi to his lodgings, and the French minister, as Grimaldi reported to his government on that day,

> said to me that he had an order from the king, his master, to sign with me an act ceding Louisiana and New Orleans to the king [of Spain]; that he had offered it, as I understood, and is certain, to Bedford, if he desired it in place of Florida; but that, I not having supported him or been able to hope (because of the instructions which fettered Bedford) that this British minister would accept it, his Most Christian Majesty has decided to cede it to the King, that he desired him to accept it, . . . and that, in short, that which his Most Christian Majesty desired, and which had been resolved upon in Council yesterday, was to compensate with some cession for the sacrifice of Florida . . . with the object, not only of manifesting to the King the good co-operativeness of his thinking of that Sovereign, but also to prove it to the Spanish nation.
>
> *Not finding myself authorized to accept this cession—having rather, on the contrary, earlier information that opinions in Spain were that we could agree that the French remain in that quarter to serve as a buffer to Mexico between the English and ourselves, I represented this to the Duc de Choiseul.* But this minister insisted so much, declaring to me that he had an express order from his master the king, made in Council, and that his Most Christian Majesty exacted it of me, that I took the expedient of altering the draft of the Instrument which Choiseul had already prepared, and placed in it, in order that I might sign it, the clause which Your Excellency will see, concerning the condition *sub spe rati.*[9]

The concluding paragraph of the preliminary act of cession, added by Grimaldi, reads:

> But the Marquis de Grimaldi, not being exactly informed of the intentions of His Most Catholic Majesty, has believed he ought not to accept the said cession save conditionally and *sub spe rati* awaiting orders from his Royal Master, which if they conform to the desires of His Most Christian Majesty, . . . will be immediately followed by the formal and authentic act of cession.[10]

Thus it seems that Grimaldi did not wish or seek to obtain Louisiana for Spain, and that the French gift, so far from being a

[9]Grimaldi to Wall, November 3, 1762, in Jerónimo Bécker, "El Centenario de la Luisiana," in *La España Moderna* (Madrid), No. 173 (1903), 111, 112. My italics.

[10]The document is given in F. P. Renault, *Le Pacte de Famille et l'Amerique* (1922), 51 note; and in M. Serrano y Sanz, *Documentos Históricos de la Florida y la Luisiana* (1913), 265.

price for his signing the peace, was unexpected by him and contrary to his policy, and accepted by him reluctantly and only tentatively, subject to his king's subsequent decision.

Spain considered Louisiana as having a rather negative value, as a buffer for Mexico against England. Grimaldi believed that it would be a stronger buffer in the hands of France. Wall, in replying to Grimaldi's dispatch of November 3, remarked of the Louisiana cession:

> This action is so noble, does so much to honor Christianity in the world and to bind the Spanish and French, that the King, overcoming his first generous repugnance to his cousin's losing for his benefit a span of territory, has decided to agree to it. The sight of the intensity with which the Duc de Choiseul desires and persuades it has contributed much to this end, coming above the opinion that it suited Spain that Louisiana remain in the hands of the French. . . . That which has been influential with His Majesty is the suggestion that so beautiful an action—the air of cordiality with which the two courts will appear thereby before the world—should not be lost . . .
>
> Since the King accepts the cession, your Excellency will conclude whatever will be necessary . . . to sign this act, since that sent was informal and not sufficiently authentic. His Majesty finds it satisfactory, and especially prefers it to any which might be made, because *it is clear that no negotiation has preceded it, nor has there been the least artifice for this gallantry,* either in the terms which make the cession or those which accept it, and your Excellency's clause *sub spe rati* clearly proves it.

Wall in this letter expressly sent Grimaldi authorization to accept Louisiana for Spain, adding: "It is being ratified by His Majesty, and this same ratification includes the acceptance and your authorization for it."[11]

In all the documents we find the French king offering Louisiana to Spain as a reimbursement, a token of esteem, and as an *expression of his desire that the family alliance continue unimpaired.* Already Louis XV and Choiseul were looking forward to a war of *revanche* against England. Louis stated again in his letter to Charles of November 3, announcing the transfer:

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[11]Wall to Grimaldi, November 13, 1762, in Serrano y Sanz, *op. cit.*, 267-269. My italics.

> If that colony could compensate him [Charles] for the losses suffered in the short war in the interests of France, he would consider less the value of the cession than the good that it could do to the union of the French nation with Spain.[12]

Louis's gift was well calculated to soothe Spain and ensure the continuance of the alliance. This undoubtedly was his prime motive; and it was so understood by Wall, who had some difficulty in inducing Charles to accept the French gift. "This stroke of generosity is one of great policy," writes Wall, "and we have had some trouble to make the king accept it, and let himself be persuaded for the same political reason that actuated its offer."[13] The Spanish court generally understood that Louis had ceded Louisiana because he wished to "maintain the closest possible union and friendship with Spain." And Choiseul himself says as much in the memoir which he presented to Louis XV in February, 1765.[14]

Thus if the "white elephant" theory regarding the Louisiana transfer seems too unreasonable to need special refutation, and if the "peace bribe" theory seems equally untenable, we have seen an adequate motive in the French desire to preserve and strengthen the Family Compact, which thus far had proved worse than useless to Spain. Choiseul cherished this alliance not merely for its military value (which Spain's weakness had rendered doubtful) but from a hope of commercial advantages from Spain and the closing of the Spanish commerce to England.[15]

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[12]Soulange-Bodin, *op. cit.*, 165, 197.

[13]Wall to Roda, November 16, 1762, quoted in Shepherd, *op. cit.*, 451.

[14]*Ibid.*, 456 note; Choiseul's memoir in Soulange-Bodin, *op. cit.*, 236-253. Other Frenchmen took the same view. See Favier's *La Politique des Cabinets de l'Europe, par le Comte de Ségur* (Paris, 1825), II, 182, 183; Favier's memoir in Soulange-Bodin, *op. cit.*, 267, 268. Similarly, the Spanish historian Rafael Altamira y Crevea says that the Louisiana cession was "according to the treaty to compensate for the loss of Florida, but in reality to soften the bad effects of the war and preserve the alliance of Charles III." *Historia de España* (1900-14), IV. 52.

[15]Choiseul to Ossun, December 16, 1764, in Morel-Fatio, *Recueil des Instructions*, XII bis, 354-356, Rousseau, *op. cit.*, I, 107. Some of his contemporaries attribute Choiseul's policy of conciliating Charles III to a wish to exalt and more firmly intrench himself in favor. Others view him as seeking to bring Charles into his program of putting down the Jesuits.

RECORDS OF THE SUPERIOR COUNCIL OF LOUISIANA
LXVI.

January, 1748.

(Continued from October, 1935, Quarterly)

By HELOISE H. CRUZAT
Marginal Notes by Henry P. Dart
(Revised by Walter Prichard)

By the Editor of the Quarterly

List of Officials of Louisiana participating in the work of the Superior Council of Louisiana contained in this installment:

De Vaudreuil, Pierre Rigaud Cavagnol, Governor
Le Normant, Sebastian Francois Ange, First Judge (until January 27th) and Commissaire Ordonnateur
Henry, Nicolas, Clerk of the Superior Council and Notary.
Chantalou, Augustin, Sheriff
Lenormand, Marin, Deputy Sheriff
De Benac, Etienne. Town Major of New Orleans
Raguet, Jean Baptiste. Councillor, also acting as Procureur General (except in the Charlot case)
Lafreniere, Nicolas Chauvin de, Councillor
Le Bretton, Louis Cesaire, Councillor and Acting Procureur General (in the Charlot case)
D'Auberville, Vincent. Councillor (temporary until January 27th, when he succeeded Le Normant as First Judge)
Gueydan, Jean Baptiste, Chief Surgeon of the King's Hospitals)
Chanfret, Claude Trenaunay, Commandant at Pointe Coupée
Prevost, Jean Baptiste, Councillor (acting temporarily)
Balquet, Surgeon at Pointe Coupée

January 3, 1748.

30988. 4488. 5 pp.

Marriage contract between Monsieur Antoine Philipe de Marigny, Ecuyer Sieur de Mandeville, and Francoise de Lisle Dupart.

Marriage Contract of Monsieur "Antoine Philipe de Marigny Ecuyer Sieur de Mandeville," Marine Officer, son (of age) of deceased "Messire Francois Philipe de Hautmenil de Marigny Ecuyer Sieur de Mandeville," whilst living Knight of the Military Order of Saint Louis, Major of troops in New Orleans, and of Dame Magdelaine Le Maire, now married to Mr. Francois Ignace Broutin, Engineer of the King with the rank and seniority of Captain of Infantry in the said Province, a

native of Mobile, Bishopric of Quebec, on one side, and Francoise Delisle Dupart, minor daughter of Sr. Pierre Delisle Dupart and of Marie Michele (blank), his wife, both stipulating for their minor daughter, who is a native of New Orleans.

Signed: Antoinne Philippe Demandeville; Francoise Delille; Dlle Dupart; Marque X de Mme. Marie Michel; hugon; Chantalou; S. Latin; lenormand; Avignon; Henry, notary.

In legible script, inner margins torn.

January 3.

No. 1118. 4 pp.

Proces verbal of inquest on body of Pierre Olivy, called Bonnevie.

Proces Verbal of Assassination of Pierre Olivy, called Bonnevie, soldier of the Garrison. At seven o'clock P. M. Mr. Lenormant, Commissioner of the Marine and Ordonnateur (Intendant), was informed of the murder of a soldier. He went immediately to the Hospital where the body was, accompanied by Mr. Le Bretton. Chief Secretary of the Marine, acting as Comptroller and Councillor, and Surgeon Goudeau, where they found M. de Benac, Maior of the troops and of the Place, who had been notified by Mr. de Membrede at 3 P. M., and transmitted to Sr. Goudeau the order to repair immediately to the "little Plantation" of M. Raguet, beyond the City. Membrede was notified by Fanchon, an Indian woman, and the Commander of M. Raguet's slaves, that a soldier had been assassinated by a young negro, outside the enclosure of said plantation, towards the woods. When Sr. Goudeau saw the wounded man, he had not lost consciousness and said he knew his assassin and would tell his name, but after these words he never spoke again, and being brought to the Hospital and placed before a large fire to be examined, he expired in the moment. which report was confirmed by Surgeon Goudeau. He found eight wounds on the soldier, made with a sharp knife, 4 x 3½ inches with a wooden handle, which was found with his gun and his powder horn and several dead starlings next to him. Sr. Goudeau affirmed his report on his soul and conscience with raised hand, and afterwards burial was ordered and the proces verbal signed and deposited in the Registry by M. Le Bretton at eleven thirty the same night.

Signed: Lenormant; De Benac; F. Goudeau; Le Bretton; Henry, notary.

Document stained, with ragged margins.

No. 1119. 1 p.

Order for inquiry.

January 4, 1748. Session of the Superior Council, where were present MM. Le Normant, First Councillor; De Benac, Major; de la Freniere and Le Bretton, Councillors. Following the Proces Verbal made yesterday by Mr. Le Normant, First Judge, order that inquiry be made, and Councillor La Freniere appointed

Commissioner on this case. Mr. Raguet recused himself as acting Procureur General, as his slaves are suspected, and Mr. Le Bretton has been named to act as Procureur General in his place.

Signed: Lenormant; Lafreniere; De Benac; Le Bretton; Henry Greff.

No. 1121. 10 pp.

Interrogation of Charlot, called "Karacou."

January 5, 1748. Interrogation of Charlot, called "Karacou". On request of M. Le Bretton, following decree of Superior Council of date of yesterday, against different slaves owned by M. Raguet, imprisoned in the jail of this City, suspected of assassinating Pierre Olivy, a soldier of the Garrison, Nicolas Chaúvin de la Freniere having gone with the Greffier to the Criminal Chamber, had brought before him by the Jailer of the Prisons the slave Charlot, called Kacaracou, for the purpose of interrogating him. Being questioned, he said that he was called Charlot, that his parents are named Kacaracou, that he is not baptized, that he is a slave of Mr. Raguet's and squares lumber, and is from the Coneda nation, aged about twenty-five years. He does not know why he is in prison, that his Master made him come to the City last evening to split wood, that he slept here, and this morning soldiers came for him in his cabin. Interrogated if he knew Pierre Olivy, called Bonnevie, he said that he does not know him, but that he may have seen him without knowing who he was. He had seen him in his Master's desert with two young Creoles belonging to Mr. Dubreuil, a small Frenchman, who was hunting starlings, but he does not know him. He only saw the two young negro boys with him. He said that he had dined with Pluton, one of his Master's slaves, and that he smoked potatoes with him, that he did not speak to the Frenchman, and left him in the "desert" when he came back at noon with the two young negroes. He was told that he did not speak the truth, since he came to dinner after the other slaves. He answered that it was the truth. Asked if he had seen a snare (trappe) for starlings, he replied that no one had seen him go towards the wood, and that he went to the river bank. He was then shown a Knife which is pierced in the end of the handle, and he said that he did not know the said knife, that it belongs to none of his comrades, and that he had never seen it. He was then asked if he knew this bloody shirt. He said that it was his, that the blood was that of a sheep that his master had killed by another negro, and that he carried it to the City; he wore it with the front in the back to shield himself from the wind, and that in prison they tore it while taking it off. It was not very cold when he carried the sheep, and he left his coat at the plantation. The blood on it comes from a wild cat he killed there, about two weeks ago; he killed the wild cat with a hatchet. The dogs had caught it, and the cat

scratched him between his cheek and his left side. He was told that the wound is still fresh, and he said that it is always so. They found another wound resembling the point of a knife or a tooth on the same finger. He answered that it was due to a splinter, and that the scar on his lower back came from his Master's whip; which may be true, as the scab is not old. His wounds appear fresh and like those of a man who defended himself. He again denied that he owned the Knife. Asked if his Master had any other negroes named Charlot, he replied that there was another but he is long since dead. He said that he had answered the truth, and declared that he could not write nor sign.

Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General. Signed: Lafreniere.

Document stained.

No. 1122. 2¾ pp.

Decree of arrest against four negro slaves.

January 5, 1748. Decree of Bodily Apprehension against Charlot, Jean Baptiste, Cupidon and Francois, and imprisonment, and that they be re-examined and confronted and that Charlot's wounds and scratches be examined before the Commissioner in this case by the Surgeon Major, proces verbal to be drawn up, the whole to be reported, to be ordered thereon what is just.

Signed: Vaudreuil; Lenormant; De Benac; Lafreniere; Prevost; Henry Greff.

No. 1120. 4 pp.

Interrogation of the slave Francois.

January 5, 1748. Interrogation of Francois, on request of M. Le Bretton, acting as Procureur General, by Councillor Lafreniere in the Criminal Chamber, where he was brought by the jailer. Interrogated, he said that he belonged to M. Raguet, that he was named Francois, of the Nago nation, aged about forty-five years, and he took the oath to speak the truth. He does not know why he is in prison; soldiers came for him and took him to prison with other slaves. Interrogated if he knew a little Frenchman who was hunting on his Master's plantation, he answered that he saw him, that some one knifed him, and that he helped other slaves and the son of Mrs. Baschemin to carry him to the Hospital. He does not know who assassinated the Frenchman. He was told that he did not speak the truth, for he had said that Charlot was a rascal and that he had committed the murder. He answered that they had seen his shirt and coat full of blood and he had judged thereon. He recognized the knife as owned by Charlot. He said that he had not dined with Charlot, that he came to the cabin the first one and did not pay attention to what the others did. He did

not see Charlot go for wood towards the river between eleven and noon. He said that he had spoken the truth and that he could not write nor sign.

Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General. Signed: Lafreniere.

No. 1123.

Report on Charlot's wounds.

January 5, 1748. Report on Charlot's Wounds by Surgeon Gueydan. Charlot was brought to the Criminal Chamber, and on examination he was found to have been wounded in the left thumb above the second joint, a bite as large as a bean and a bruise of the same size on the external side of the large finger of the right hand, a small excoriation from the cheek to the left lip, and another excoriation from the pectoral muscle to centre of sternum. This report was made and signed by Surgeon Gueydan, Lafreniere, Le Bretton, and Henry Greff.

No. 1124.

Criminal prosecution against four negro slaves.

January 5, 1748. Criminal Prosecution against the slave Charlot by the Procureur General, plaintiff and accuser, against Charlot called Kacaracou, Jean Baptiste, Cupidon and Francois, defenders and accused, said slaves owned by M. Raguet. Considering proces verbal of the third instant, drawn up before M. Le Normant, Commissioner General of the Marine and First Judge of the Council; the decree of Council on 4th instant, which appointed said petitioner (Le Bretton), acting as Procureur General; the inquiry made on the 4th instant; the interrogation of Jean Baptiste called Cupidon, that of Charlot called Kacaracou, for interrogation on facts resulting from charges and others on which they will be heard; that witnesses testifying in said interrogation be re-examined and confronted with said Charlot, the accused, as well as Jean Baptiste and Francois, who will be likewise confronted with said accused. Signed: Le Bretton.

No. 1135. 7 pp.

Examination of Jean Baptiste, called Cupidon.

Interrogation of several slaves suspected of assassination of Pierre Olivy. Brought by the jailer before M. Lafreniere to the "Criminal Chamber of the prisons," Jean Baptiste called Cupidon, a field hand owned by M. Raguet, aged 25 or 26 years, of the Senegal nation, baptized. He never saw the Frenchman before he was wounded and brought to the Hospital. He was in his cabin, but heard shots in the Desert of MM. Darby and Dubreuil. He was with two small negroes of Mr. Dubreuil. He was the one who cried to the Frenchman

not to shoot at the starlings and to get away from there, and the Frenchman left without saying a word. He identified a knife as belonging to Charlot. When asked if Charlot has committed the murder, he said he had no knowledge but of what he had seen; that the bloody clothes were Charlot's; he wore the coat day before yesterday, and he saw that Charlot was a little rascal. His interrogation being read to him, he said that it was the truth, persisted therein, and declared that he did not know how to write.

Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General. Signed: Lafreniere.

No. 1125. 7 pp.

Interrogation of Joseph, a slave of M. Raguet.

January 6, 1748. On request of M. Le Bretton, acting as Procureur General, in the place of M. Raguet, owner of several negroes, "Nicolas Chauvin de la Freniere", Commissioner on this case, accompanied by the Greffier, went to the prisons of this City, and had brought to him by the jailor, "in the Criminal Chamber of the Prisons," a negro named Joseph for interrogation. He said he was named Joseph, aged eighteen years, a Creole of the country. He said that last Wednesday he had seen a Frenchman hunting on his Master's plantation, who was shooting starlings, and who had with him two small negroes of Mr. Dubreuil, one of whom, named Fléchy, went hunting or fishing every day, to feed his mother. He did not go to work with the other slaves, that being the gardener he went to plant cabbage in the garden, where he usually works with another negro who is ill. Among the negroes at work on said plantation there is one called Charlot "Kakaracou", who went to work with the others in the afternoon. He said that Charlot has worked on this plantation since last summer, that his mother lived there, but she is at this plantation since three weeks, and that his father is at the plantation of the Mill and works on the canal; that Charlot did not go to the plantation of the Mill to carry a sheep to his Master, and that he has no knowledge of Charlot being attacked by a wild cat fifteen days ago at the Mill. Last Wednesday Charlot had on his coat, which was a soldier's coat, that he was far from him and did not notice if he had anything on his coat. He identified the knife shown him as belonging to Charlot, and his shirt and coat on which there were blood stains. He saw the soldier who was wounded in the face, on his body and on the stomach. He helped to carry him with Francois, Cupidon and a negro of Madam Baschemin to the Hospital, and saw him examined; he said that he had eight wounds. Interrogated, he said that he did not know Charlot had traps for starlings in the woods, but he knows that he had traps for wild cats and wood rats in the back woods. He said that Charlot has three sisters

and two brothers; one of his sisters had her ears cut and was branded with the fleur de lis; one of his brothers was sold by M. Raguet to Duplanty, and the other works on the plantation. Questioned on Charlot, he said that he had never heard of his being in trouble before, but he was quick tempered, pouted for the least thing, and was not liked by the other negroes. He said that his testimony was the truth, persisted therein, but declared that he could not sign. Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General. Signed: Lafreniere.

No. 1126. 6½ pp.

Examination of Pluton, a slave of M. Raguet.

January 6, 1748. Interrogation of Pluton, in the Criminal Chamber of the Prisons, where the jailer brought Pluton, one of M. Raguet's slaves, to be interrogated. After oath, he said that he was of the Devon nation, aged about fifty years. He had seen the soldier shooting starlings on his Master's plantation, near the slaves sowing peas, where they left him at noon precisely. Questioned on what he had dined, he answered: on potatoes which he himself had smoked near the fire. Questioned if he had eaten with Charlot called "Kakaracou," he answered that he had not seen him at noon, that his mother cooked for him, and at dinner time called him, as he had not arrived. He had daubed his coat with mud, and when he asked him what he had killed he answered that he had killed nothing. He recognized the knife as one Joseph gave him two months ago, and the coat and shirt of coarse linen as the ones Charlot wore on last Wednesday. In the afternoon he heard a plaintive voice; he thought it was a cow, but Laurent, the Commander, saw him and called the slaves and then M. Francois Baschemin to help. He did not go to look at him, and when Laurent spoke of the great misfortune, Charlot turned his head to one side and the other without using his spade. He maintained his testimony and declared that he could not sign. Lafreniere ordered to communicate this interrogation to the Procureur General.

Signed: Lafreniere; Henry Greff.

No. 1127. 10 pp.

Re-examination of the slave Charlot.

January 8, 1748. Interrogation of Charlot, called Kakaracou, slave of Mr. Raguet, in the Criminal Chamber of the Prisons, before the Greffier. He is a Creole of this Country, called Charlot by his Master and Kakaracou by the other negroes; he does not know his age, appearing to be twenty or twenty-two years. Questioned about his doings last Wednesday, he said that he had dined with Pluton, that they smoked potatoes together. Told that he did not speak the truth, and

Pluton's testimony being repeated to him, he said that it was true, that it was after twelve but not one P. M., and that he went for it near the landing of M. Dubreuil's small plantation, and that he spoke to two of his small negroes, who told him they were looking for starlings. He said that he had not put mud on his coat; he had mud on it because he had fallen with his wood. He acknowledged that after smoking potatoes he went to his mother's cabin and that she gave him rice, and that there were three negroes there. He named them. He was then questioned on his behavior when the wounded soldier was found, and on the wound on the left wrist, which looked like a dent of a tooth. He answered that it was made whilst cutting wood. He told of the "Small Frenchman" having given him slaps, that they had fought with their fists, and that he used the knife to defend himself; the Frenchman having aimed a gun at him to shoot him, he stabbed him in the abdomen. He detailed his fight with the soldier. He said that the soldier was moaning and cursing him when he left, and confessed that it was his blood that was on him. He intended to bury him at night, or to throw him in the water. He told of the Frenchman beginning the fight, cursing him and threatening to shoot him. He was half drunk. He said that his answers were true, and persisted therein.

Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General. Signed: Lafreniere.

No. 1128. 2¾ pp.

Examination of the Slave Francois.

January 8, 1748. Interrogation of Francois. On demand of M. Le Bretton, acting as Procureur General on this case, Nicolas Chauvin de la Freniere, Commissioner on this case, accompanied by the Greffier Henry, went to the Criminal Chamber, where he had brought to him by the jailer the negro Francois for interrogation, who, after oath to speak the truth, declared that he was named Francois, a slave of M. Raguet, of the Nago nation, aged about forty years; he was not baptized. He had seen the soldier hunting on his Master's plantation on Wednesday, and in the afternoon when he was brought to the Hospital. He knew not who had assassinated him, but he thinks it was Charlot, for he had blood on his coat and he alone was absent at dinner time. He only heard this, as Charlot did not approach him. He said that he had spoken the truth, persisted therein, and did not know how to write.

Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General of the King. Signed: Lafreniere.

No. 1129. 12½ pp.

Confrontation of Charlot with Cupidon and Francois.

Confrontation made by M. Nicolas Chauvin de la Freniere, of Charlot, Cupidon and Francois, slaves of M. Raguet, on demand of M. Le Bretton, acting as Procureur General. Charlot called Kakaracou was first confronted with Jean Baptiste called Cupidon, who after oath said that they knew each other. Charlot said, after Cupidon's testimony had been read to him, that it was true; and Cupidon, after the reading of Charlot's interrogation, said that what is contained in the interrogation of the 5th instant is not true. He did not dine with the others last Wednesday, 3d instant. He came to dine shortly after they returned to work, but he does not know where he came from. The knife is Charlot's. He does not know if Charlot acknowledged the assassination. He only knows what he answered in his interrogation. Interrogations being read to them, they maintained their personal answers, and declared that they could not sign, wherefore inquiry, following ordinance. Said Cupidon was brought back to the prison. Signed: Lafreniere; Henry Greff.

Confrontation of Charlot with Francois.

On the same day the jailer brought from the Prisons Francois, who was confronted with Charlot, another of M. Raguet's slaves, accused of murder, and after oath they said they knew each other well. Charlot was asked to deny Francois' testimony, for after reading of his interrogation and re-examination, in default of so doing, no denial would be admitted. Charlot said that he had no reproaches to make. Francois answered touching the first interrogation, that Charlot is wrong to lie as he does, that the knife is his, and that the shirt and coat had blood, from that day, which came from the assassination of the young Frenchman, of which he knew nothing, but suspected it on account of the blood. Each persisted in his answers, and declared that they did not know how to write.

Signed: Lafreniere; Henry Greff.

Confrontation of Laurent, Commander of the negroes of M. Raguet.

The jailer then brought out one Laurent, a negro slave, Commander of the slaves of M. Raguet, who was heard in the inquiry of the fourth instant, who was confronted with Kakaracou, and after oath they both said that they knew each other; and after having read the testimony of said Laurent, his age, name, residence, and declaration that he was not a relative nor servant of the accused, he was summoned to furnished reproaches against Laurent, for after reading of confrontation none would be received. The accused said that he had none to make against the witness, since he had confessed in his last

interrogation. Each persisted in his deposition, and declared that they did not know how to write. Signed: Lafreniere; Henry Greff.

Confrontation of Pluton with Charlot called Kakaracou.

Pluton, another slave of M. Raguet, was brought from the Prisons to be confronted with Charlot, the accused; they both said, after oath, that they knew each other very well. Charlot said that Pluton's testimony was true. Each persisted in his testimony, and declared that they could not write.

Signed: Lafreniere; Henry Greff.

Confrontation of the jailer with Charlot.

The jailer of the Prisons, named Joseph, was then brought before Mr. de la Freniere, to be confronted with the accused; and after oath they both said that they knew each other well as belonging to the same Master. The accused said that he had no reproaches to make, that all testified was true, as he himself confessed. Each maintained his testimony, and declared that they did not know how to sign. Signed: Lafreniere; Henry Greff.

Confrontation of Charlot with Claude, young slave of Mr. Dubreuil.

Claude, a young negro owned by M. Dubreuil, was then brought before us, third witness in the Inquiry on the 4th instant. After oath, they said they knew each other well, Claude as belonging to M. Dubreuil, and Charlot as the one spoken of in testimony and re-examination. The accused said that he had no reproaches to make against said witness, and Claude repeated his testimony; and they declared that they could not sign. Signed: Lafreniere; Henry Greff.

Confrontation of Charlot with Joseph, another young slave of Mr. Dubreuil.

Was also brought forth, Joseph, a young negro of M. Dubreuil, second witness in the inquiry, who was confronted with Kakaracou. They said they knew each other, and the accused had no reproaches to make against said witness. They declared that they could not write, and were brought back to prison.

Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General of the King. Signed: Lafreniere.

No. 1130.

Confrontation of Charlot with witnesses heard against him.

January 8, 1748. Were brought before us by the jailer of the Prisons, Charlot called Kakaracou, slave of Mr. Raguet, whom we confronted with one Angélique, owned by M. Dubreuil, first witness in the inquiry. After oath, the accused said that he did not know the negress, and she that

she did not know Charlot, who is not the one she meant to speak of in her testimony. She said that her testimony was true, but the accused was not the negro she meant to speak of. Neither knew how to sign.

Signed: Lafreniere; Henry Greff.

Confrontation of Francois with Angélique.

The jailer then brought before us Francois, negro slave of M. Raguet, whom we confronted with one Angélique, a negress owned by Mr. Dubreuil, who was the first witness. They both said that they did not know each other, and that he was not the one she meant to speak of in her testimony. The accused had no reproaches to make against said witness, since she did not know him, and likewise the witness. The accused said that all she testified might be true, but not concerning him.

Signed: Lafreniere; Henry Greff.

Confrontation of Cupidon with Angélique.

Then was brought before Councillor Lafreniere, one Jean Baptiste called Cupidon, a slave owned by M. Raguet, accused, with whom we confronted the negress Angélique, first witness of the inquiry; after oath spoken to speak the truth, both denied that they knew each other. She had no reproaches to make, as it was not of the accused she meant to speak. The accused said that her testimony might be true, but did not concern him. Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General. Signed: Lafreniere.

No. 1131. 8 pp.

Confrontation of Charlot with Francois Baschemin.

Confrontation by Nicolas Chauvin de la Freniere of Charlot called Kakaracou, and Sieur Francois Baschemin, sixth witness heard in the inquiry; and after oath taken to speak the truth, Sr. Baschemin said that he knew the accused as a slave of M. Raguet, and the accused said that he knew Sr. Baschemin to be the one who came to carry the wounded French soldier when called on. They had no reproaches to make against each other. The witness signed, but the accused declared that he could not write.

Signed: Fransois corbin; Lafreniere; Henry Greff.

Laurent confronted with Baschemin.

Then appeared one Laurent, owned by M. Raguet, who was confronted with Sr. Francois Baschemin. They knew each other by sight, and had no reproaches to make to each other. Laurent declared that he did not know how to write.

Signed: Fransois corbin; Lafreniere; Henry Greff.

Confrontation of Cupidon with Baschemin.

Confrontation of Sr. Francois Baschemin and the slave Jean Baptiste, surnamed Cupidon. Cupidon said that he knew Mr. Baschemin well, as the brother of his mistress and the one who came there to carry off the young Frenchman who was wounded. Sr. Baschemin recognized him as one of those who helped to carry the young Frenchman. They had no reproaches to make against each other. The slave declared that he did not know how to write, and the document is signed: Francois corbin; Lafreniere; Henry Greff.

Confrontation of Joseph with Baschemin.

Then was brought forth Joseph, a slave of Mr. Raguet, fifth witness in the inquiry, to be confronted with Sr. Baschemin, sixth witness. After oath they said that they knew each other; Joseph knows Sr. Baschemin as the brother of his mistress, and Sr. Baschemin recognizes Joseph as one of those who helped to carry the wounded Frenchman. They had no reproaches to make. Baschemin signed, but the slave did not know how to write. Signed: Fransois corbin; Lafreniere; Henry Greff.

Confrontation of Baschemin with Francois, another accused.

Sr. Baschemin confronted with Francois, a slave owned by M. Raguet. They said that they knew each other and that they had no reproaches to make. The slave said that he did not know how to sign, but Baschemin signed.

Signed: Francois corbin; Lafreniere; Henry Greff.

Order to communicate to the Procureur General. Signed: Lafreniere.

No. 1132. 3¼ pp.

Second interrogation of Jean Baptiste called Cupidon.

January 8, 1748. On demand of Mr. Le Bretton, Procureur ad hoc, confrontation Jean Baptiste, surnamed Cupidon, was brought to the Criminal Chamber, in order to proceed to his second interrogation, before Commissioner Nicolas Chauvin de la Freniere and the Greffier of the Council. He said that he had been baptized, and took an oath to speak the truth; and being summoned to tell his name, age, etc., he told us that he was named Jean Baptiste, was a slave of Mr. Raguet, of the Senegal nation, about twenty-six years of age, that he worked planting peas in his Master's fields during the morning Wednesday, and returned in the evening. Charlot called Kakaracou came long after the hour. He had not perceived any thing, did not see blood on his coat and shirt, when he went back to work with the other slaves. He identified the knife presented to him as belonging to said Charlot. Asked if he had not had a dispute with the Frenchman for firing on the

starlings. Interrogated if he saw the Frenchman in the evening, he said that he saw him when he helped to carry him. He declared that he could not write, wherefore inquiry as per ordinance. Signed: Lafreniere; Henry Greff.

Order to communicate to the Procureur General. Signed: Lafreniere.

No. 1133.

Session of the Superior Council to make final decision in the above case.

January 10, 1748. Session of the Council, where were present MM. de Vaudreuil, Governor; Le Normant, First Councillor; de Benac, Major of the troops; de la Freniere, Councillor; and Prevost, called in to complete the number of judges. On demand of the Procureur General, plaintiff and accuser, against Charlot called "Cakaracou," a slave of M. Raguet, defendant and accused. Before us the proces verbal of the examination of the body of one Pierre Olivy called Bonnevie, soldier of Mr. de Gauvrit's Company, who was assassinated in Mr. Raguet's "desert", on the third of the present month, signed by Le Normant, Commissioner of the Marine and Ordonnateur, Mr. de Benac, Major, M. Le Bretton, acting as Procureur General, and Mr. Gueydan, second (assistant) Surgeon at the King's Hospital; decree that inquiry be made before Mr. de la Freniere on the facts mentioned, on demand of Mr. Le Bretton, acting as Procureur General in the place of M. Raguet, as some of his slaves are implicated in this assassination; the inquiry on the said day, before M. de la Freniere, and examination of six witnesses; the interrogation undergone by Charlot called "Cacaracou" and his personal answers on date of the fifth instant; that of Jean Baptiste called Cupidon, and that of Francois, all three slaves of M. Raguet, on the same date; the decree of the Council of the sixth, and the conclusions of the Procureur General of the King, asking that Charlot, Cupidon and Francois be bodily apprehended and imprisoned and interrogated again on facts brought out by the prosecution; that one Pluton, another slave of M. Raguet, be likewise arrested and imprisoned, to be interrogated and heard in the said inquiry, all of them to be re-examined and confronted with the above mentioned slaves and the accused; the body of Charlot called Caracarou to be examined by Sr. Gueydan, Chief Surgeon of the King's Hospitals, in the presence of M. de la Freniere, Commissioner on this case, and M. Le Bretton in his official capacity, the whole to be reported and ordered thereon what shall appertain.

Summary of the testimony taken in the case.

Before us the proces verbal of the examination by Surgeon Gueydan on the said day at seven o'clock P. M., the interrogation of the said Pluton, negro slave of M. Raguet, on the 6th instant, that of Joseph, another negro slave owned by M. Raguet, on the said day; the second interrogation of Charlot called

Cacaracou, on the eighth of the present month, that of Francois and of Cupidon on the same day; re-examination of the witnesses heard in the said inquiry and interrogations of said accused; confrontation with Sr. Baschemin, one of the witnesses, that of Angélique, a negress slave of Mr. Dubreuil, with witnesses heard in said inquiry, and that of the accused with each other; the interrogation on the witness stand of Charlot called Cacaracou of the said day, with the conclusions of the Procureur General of the King:

Final decree of the Superior Council in the case, and the penalty meted out to Charlot.

The Council has declared the said Charlot, otherwise called "Kakaracou," duly convicted and found guilty of assassination committed on the person of Pierre Olivy called Bonnevie, otherwise called Fléchy, soldier of the garrison, on the third of the present month, in reparation of which he is condemned to have his arms and legs broken, and to be broken on the wheel on the public square of this City, on a scaffold erected to that effect, and afterwards placed on a wheel, his face turned towards the sky, to end his life, where his body shall remain during twenty-four hours. He shall make honorable amends (ask pardon) before the main entrance of the parochial church of this City, where, with a torch in hand, he shall declare that he wickedly assassinated the said Pierre Olivy, for which he begs pardon of God, the King and "justice" (the law).
(In margin) That previously estimation be made of said negro by Sieurs St. Martin and Voisin; the other negroes to be sent off absolved, to be remitted to their master.

Retentum: It has been decreed that the said Charlot called Cacaracou, after having received all the blows living shall secretly be strangled. Given in the Council Chamber on the tenth day of January one thousand seven hundred and forty-eight.

Signed: Lenormant; Vaudreuil; De Benac; Lafreniere; Prevost.

Document mutilated.

Estimation of the value of the condemned slave, Charlot. Value fixed at 1300 livres.

January 10, 1748. We, the undersigned, following the decree of the Superior Council of this Province, of this day, appointed to make estimation of a negro named Charlot called Kakaracou, belonging to M. Raguet, we went to the prisons of the said City where we found the said negro and, after having seen and examined him, we have estimated his value at the sum of thirteen hundred livres, in testimony of which we have signed the present "proces verbal", to serve and avail as shall appertain. Done at New Orleans on the tenth day of January, one thousand seven hundred and forty-eight.

Signed: St Martin; Layssard.

No. 1134.

After conviction and sentence for the crime, Charlot makes a confession, in which he names Pierrot, another slave, as his accomplice.

January 10, 1748. On information given by one Charlot called Cakaracou, condemned by decree of the Council to be this day broken on the wheel after pardon asked with the "torch" in hand, his judgment having been read to him, the Rev. F. Mathias, Capuchin priest, being with him sent word that he had accomplices to reveal in the assassination he committed, which obliged Commissioner Nicolas Chauvin de la Freniere to go to the Criminal Chamber of the Prisons to receive his confession. Charlot was sent for and he came accompanied by the Rev. F. Mathias, and declared that coming back from looking over his traps from the depth of the "desert" (wood), he found a negro cowherd of Mr. de Belleisle, named Pierrot, who said to him: "Come with me; there is a little Frenchman who picked a quarrel with me; we will go into the cabin; we shall find some potatoes to eat. Coming back together, they found this same Frenchman and both fell upon him, that whilst he, the accused, held him by the feet, he gave the same knife to Pierrot that was shown, who stabbed him with it several times; that they were both together when the murder happened. The said Pierrot went home and he also to his cabin." After advising him not to accuse another falsely, that he should consider himself as a man about to leave this world, and that it would be adding to his crime, he reiterated that it was true, that if he had not said it, he did not expect to die, but as he saw that he was to die, he thought himself obligated to reveal the truth; which obliged us, though it was three o'clock, to send for Pierrot to confront him with Charlot, who took the oath to speak the truth. Pierrot, after oath, told us that he was a slave of Mr. Belleisle, of the Bambara nation. that he is baptized, and is about forty-five years old. He knows Charlot well, and Charlot's declaration having been read to him, he said that he had not beaten the Frenchman, that on that day he had minded his cows. Charlot maintained that his declaration was true, that he had even taken the knife from the hands of Pierrot; that on the day of the murder Pierrot was hunting for a lost cow, where his traps were set. Pierrot wore a dark vest on that day and the coat he has on now. Pierrot said it was all false; Charlot, that when he hid his sister in his cabin he always denied it to his Master, M. Raguet. He is a Bambara and he always lies. They maintained each one what they advanced, Pierrot telling Charlot that if he had to die alone, there was no reason to make others die, who had done nothing with

Pierrot is brought forward to be confronted with Charlot, who has named him as an accomplice.

him. Said Pierrot was conducted to prison, and Charlot left in the hands of Father Mathias. They declared that they did not know how to write. Signed: Lafreniere.

Superior Council orders arrest and imprisonment of Pierrot, in order that he may be interrogated.

The Council, composed of Mr. de Vaudreuil, Governor; Mr. Le Normant, First Councillor; M. de Benac, Major; de la Freniere, Commissioner; Prevost, called in to complete the number of judges, after taking cognizance of the declaration of Charlot called Kacaracou, of his confrontation with Pierrot, decreed the arrest and imprisonment of Pierrot to be interrogated. Given in the Council Chamber at two o'clock in the afternoon on the tenth day of January. Signed: Lenormant; Vaudreuil; De Benac; Prevost.

No. 1136.

Interrogation of Pierrot before Lafreniere.

January 11, 1748. Interrogation of the negro Pierrot, at 8 A. M., before Councillor Nicolas Chauvin de la Freniere. in the Criminal Chamber of the Prisons. in the presence of the Greffier of the Council. After oath, he said that he belonged to M. Belleisle, he is named Pierrot. of the Bambara nation. has been baptized, and is aged about forty-five years. He said that the Commander of M. Belleisle told him that a Frenchman had been assassinated, and that they said it was by one of M. Raguet's slaves. On the day it happened he was in his Master's desert all day rounding up his cattle. He did not dine on that day, as it is usually at night that he cooks his meals. He has no other coat but the one he is wearing, and no vest. Asked whence he was coming on the day that Charlot met him in the wood, the day that the Frenchman was assassinated, he answered that he had not seen Charlot for a month, and that it is as long since he has sought his cattle in the wood, and he then had two of his Master's negroes to help him, and to bring back a cow that had given birth to a calf. They went there by their Master's orders. He did not tell Charlot to come to his cabin, nor did they eat potatoes. He recognized the knife as belonging to Charlot, but that he never used it. The last time he saw Charlot he was with several slaves of M. Raguet, splitting stakes. He was with the above mentioned, Dossy and Gendarme, and Charlot wanted to sell him the wood rat he was skinning, for 30 sols; he offered twenty-five, which Charlot refused. He acknowledged that about a year ago he had killed a cow that ate Mr. Darby's rice and always ran away. He never comes to town. But when he needs tobacco, he then asks the money from his Master, and gives it to the negro who sells milk for his master, who buys it for him. Asked if he had hidden Marianne in his cabin, he said he fed her but once. He declared that he could not write nor sign, and the interrogation is signed by Lafreniere, who ordered that it be communicated to the Procureur General.

No. 1137.

Second interrogation of the negro Pierrot.

January 12, 1748. Interrogation of the negro Pierrot, at 2 o'clock in the afternoon, on demand of M. Le Bretton, acting as Procureur General, by virtue of the decree of arrest of the 10th of the present month, in the Criminal Chamber of the Prisons, by M. Chauvin de la Freniere, Commissioner on this case, in the presence of the Greffier of the Council. The jailer brought the negro and, after oath to speak the truth, he said that he was called Pierrot, was a herdsman of Mr. Belleisle, that he is baptized, is aged about forty-five years, and is of the Bambara nation. Further questioning brought out that he has seen "catches" (traps) in the wood, but does not know to whom they belong; he saw these traps a long time ago, when he went to seek a lost cow in the wood, and was with two others. On the day of the murder he was in his Master's field, as on every other day, minding his cows; he said that in the morning he saw his Master's slaves working on the levee, that they went to dine at noon, leaving him there with his fire; and he remained there turning back his cows who tried to enter the wood, and holding them in the desert. The Commander of his Master, called L'Eveillé, said to him, "Come, Pierrot, let us go to dinner. He answered that it was not his habit, that if he went to dinner his Master would whip him, and he had never seen how he skinned him." The negroes had all gone to dinner, and he saw none of them in the desert. When they returned to work they found him near his fire; he spoke to L'Eveillé, whom he asked to give him a pipe full of tobacco, who gave it to him from his bag; that said L'Eveillé wished to give him an ear of corn to roast at his fire, but he returned it saying that he had toothache and could not eat it, that at night he would boil some "sagamité." Interrogated as to what he ate in the course of the day, he answered "nothing", that he did nothing but smoke. Asked if among the cattle of his Master there were none lost since two weeks, he answered "no", and that if he did not round them up every day in the park, that he would not sleep in his cabin, that there would be four stakes prepared for him by order of his Master; that he does not abandon his cows from morning to sunset. To another question, he answered that he always kept his cows in the desert and never let them roam into the woods. The next day he was in the same place, doing his ordinary work. He saw the slaves go to dinner and come back to work, but he did not leave his fire, which he left only to round up his cows. His Master was present in the park when he milked three cows and brought the milk to his Master in his cabin. He does not know Charlot's mother, but he met Charlot in the "last warm weather", when he went to the plantation of the mill to buy a quarter of rice with Laurent, Commander of M. Raguet. He has not gone to Charlot's cabin; he is not a comrade of the Creoles. Once his Master had sent for him to speak to M.

Raguet about his runaway negress, as he was suspected of having given refuge to said negress who ran away with Larose, a slave of Mr. Caron. He has belonged to M. Belleisle for a long time, since the war with the Natchez.

Examination of Pierrot's body, to see if he had any fresh wounds.

Then they examined the body of said Pierrot to see if he had any contusions, and noticed nothing. The present interrogation being read to him, he persisted in the answers given, and declared that he could not write.

Signed: Lafreniere.

Order to communicate to the Procureur General of the King. Signed: Lafreniere.

No. 1138. 6½ pp.

Inquiry against Pierrot.

January 13, 1748. Inquiry made by Councillor Nicolas Chauvin de la Freniere, on demand of M. Le Bretton, against Pierrot, slave of M. Belleisle. Covers three and one-fourth pages. Signed: Lafreniere.

Interrogation of Jean Geroud, another slave of Belleisle.

Jean Geroud, another Bambara slave owned by M. de Belleisle, was then interrogated. He said that he was aged about thirty-four years, had been baptized, and promised to tell the truth. He had no knowledge of the murder, and stated that Pierrot, the herdsman, had been with the cows the whole morning on the side of de la Pommeray's plantation, where the slaves of M. Belleisle are digging a ditch. They came back to work at one P. M. and found Pierrot still there. He dines late in the evening, giving as his reason that he gives his ration to the negro cook, as he does not dine but eats in his cabin at night; that he lost a cow about a month ago, and that Daussy went by order of his Master to seek Pierrot, who they thought had run away, as he had not been at his cabin since four days. He said that he had then seen M. Raguet's negroes making stakes on the water's bank. Asked if he had seen Pierrot on the day of the murder, he said that he had seen him all day in his Master's desert, and he saw him likewise bring his cows back to the park; which, he said, is all he knew and he declared that he could not write nor sign. The document is signed: Lafreniere.

Order to communicate to the Procureur General. Signed: Lafreniere.

No. 1139.

Council renders judgment for more ample information against Pierrot.

January 27, 1748. Judgment Rendered for more ample information against Pierrot, in session of the Council of that date, where were present MM. de Vaudreuil, Governor; Le Normant, First Councillor; D'Auberville, just received; de Benac, Major; de la Freniere, Councillor; and Le Bretton, acting as Procureur General of the King. Mr. Le Bretton, acting Pro-

cureur General, plaintiff and accuser, against Pierrot, negro slave of M. de Belleisle, defendant and accused. Considering the proceedings extraordinarily instituted by the Procureur General of the King, and other proceedings of the suit, the Council orders more ample inquiry to be made and other charges; however, it is ordered that the said negro be remitted to his Master, to be arrested again if the case demands it. Given in the Council Chamber, one thousand seven hundred and forty-eight.

Signed: Lenormant; Vaudreuil; De Benac; Lafreniere; D'Auberville; Le Bretton.

January 9.

30993. 4469. 8 pp.

Judicial sale of a house and lot.

Judicial Sale of House and Lot owned by Laroche minors, on petition of Jacques Massicot, acting as husband of Marie Dandin, previously widow of Jean La Roche; and of Pierre Revoil, husband of Catherine La Roche, daughter of deceased Jean La Roche, and following decree of the Superior Council of the second of last December, ordering sale of the house and lots proceeding from community of Widow La Roche's first marriage, returns thereof to be divided between the heirs, before M. Raguet, acting as Procureur General of the King. After compliance with formalities prescribed, the auction took place before Mr. Nicolas Chauvin de la Freniere, Commissioner on this case. The first bid was for the sum of 2000 livres by Thomas Lefebvre, against Le Sassier at 2100 livres. Other bidders were Chastang and Massicot, and "seeing that eleven o'clock has been struck and that the real value has not been reached, with the consent of the said parties sale has been adjourned to eight days hence, postings and advertisement to be repeated."

Signed: Lefevre; Raguet; Lafreniere.

Continuation of the above sale.

January 18, 1748. On this date M. della Freniere, accompanied by the Procureur and the Sheriff, went to the Registry, for sale and adjudication of a house and lots, following Sheriff Lenormand's posting on the 14th instant.

30999.

Order for the above sale.

December 2, 1747. Decree of Council ordering sale and division of community property. Signed: By the Council; Henry, Greff.

Second offering of the above property.

Sale followed and the house and lots were adjudicated to M. Massicot, at the sum of three thousand livres. The Procureur General of the King has notified the public that if within eight days a higher bid is made, that it will be accepted.

Signed: Revoil; Massicot; Lafreniere; Raguet.

Final adjudication of the property.

January 30, 1748. Final adjudication was made to Revoil, for three thousand livres and costs. Signed: Raguet.

Document charred and perforated.

30995.

Notice of sale of property above named.

January 14, 1748. (Inclosed in previous document). **Notice to Public** that on Thursday, January 18th, at 9 o'clock A. M. we will proceed to the sale and adjudication of the house and lots adjoining Mr. Gautreau, the last bid having been made by Mr. Lefevre at 2900 livres, this being the fourth and last advertisement. Posted at the main door of the Church and at the door of the Intendancy by Sheriff Lenormand.

January 15.

31003. 4470.
3½ pp.

Procuration by Widow Gallot.

Procuration Granted before Notary Royal of New Orleans, by Therese "Drillant," widow of Sr. Francois Julien Gallot, employed in the offices of the King and merchant in this Colony, in her name and as tutrix of Charlotte Therese, Marie Francoise Gallot and Francois Louis Gallot, minor children of herself and said deceased Gallot, to Sieur Nouguez and in his absence to Sr. Aussy (Haussy), about to leave for France for the direction and administration of the affairs of said Widow Gallot, giving them full power to collect, receive, discharge, etc. Of this procuration three copies were made. Passed in the presence of Augustin Chantalou, Greffier, and Sheriff Lenormand. Signed: veuve gallot; Chantalou; Lenormand; Henry, notary.

January 21.
2½ pp.

Petition for confirmation of sale and to adjust survey.

Petition to Superior Council by Sr. Nicolas Chauvin Boisclair, planter of this Colony, stating that he had obtained from MM. de Bienville and Salmon eight arpents frontage by forty in depth, not yet granted, following certificate of Sr. Broutin. Petitioner sold said land to Sr. Piquery in good faith. The forty arpents of depth were verified, but they are not there at this day, being bounded by the Ste. Reine concession, which cuts the depth. Petitioner prays for confirmation of sale and order to Sr. Piquery to take as many arpents as are missing on land of petitioner, which adjoins his. Signed: Chauvin Boisclair.

Citation of parties.

January 21, 1748. Both parties cited to answer before the Council, to be ordered thereon what is just. Signed: Lenormant.

Notice served.

January 22, 1748. Notice of citation served on Sr. Piquery, the King's baker, at his domicile in New Orleans. Signed: Lenormand.

January 21. 1 p.

Protest against division of returns of Widow Gervais' succession.

Protest in Registry of the Council against delivery of returns of Widow Gervais' succession, by Sr. Jacques Chauvin, wholesale merchant of New Orleans, declaring that said Widow owed him 240 livres for merchandise, which was verified by MM. Olivier and Lafreniere, syndics named for the creditors. He protests against division and delivery of goods and funds of said succession until payment of said debt, and asked that his protest be certified. Signed: Henry Greff.

January 22. 1¾ pp.

Offer to indemnify or to replace land that is short.

Copy of Petition of Sr. Nicolas Chauvin Boisclair, settler in this Colony, stating that he had a grant from MM. de Bienville and Salmon of eight arpents frontage by the ordinary depth, of which he was given a certificate by Engineer Broutin, of said extent. He sold said land to Mr. Piquery in good faith, who finds the depth less than that recorded. Petitioner has offered to indemnify him for the difference, and prays that the Council confirm the sale and order Sr. Piquery to replace missing arpents on the adjoining land of petitioner.

Notice served on Piquery.

January 22, 1748. Following above petition by Sr. Boisclair, notice of citation was served on Sr. Pierre Piquery, the King's baker, at his domicile by Sheriff Marin Lenormand, leaving a copy of petition and citation.

Document charred and cut; going to pieces.

Jan 22. 2 pp. N. P.

Demand for payment for shells reduced to lime without notice or payment.

Petition to Superior Council by Louis Vernay, as husband of Marie Rose Girardy, Widow of Jean Baptiste Saussier, stating that said Saussier had transported to the plantation of Joseph Girardy eight and a half boats full of shells, amounting altogether to 350 quarters at twenty sols, which totals 350 livres. Sr. Brasillier, called Touranjeau, settler at the Bayou, took possession of said shells about two years ago without having paid for them nor notified any one. He has paid on account 10 livres, and refuses to pay the balance, with costs and interest. Wherefore petitioner prays for citation of Touranjeau.

Permit to cite.

January 22, 1748. Permit to cite. Singed: Lenormant.

Notice of citation.

January 23, 1748. Notice of citation before Council, served on St. Brasillier at his domicile by Sheriff Lenormand.

Acknowledgment of the above charge.

April 18, 1747. Acknowledgment by the undersigned that he ceded to Widow Saucier three boats full of shells to make lime, in which quantity he enters for half, as he carted the larger part; Sr. Touranjeau having taken possession of said shells, which he reduced to lime without rendering account to the Widow Saucier.

Signed: Courtableau.

January 22.
30981. 11 pp.

Sale made on petition of tutors of minors.

Sale made on petition of Louis Langlois, tutor of minor heirs of Catherine Beaudreau and Etienne Langlois, her first husband, and of Jacques Janis, their subrogate tutor, by order of Mr. Le Normant, on conclusions of M. Raguet, acting Procureur General of the King. Nicolas Chauvin de la Freniere, accompanied by M. Raguet, proceeded to cry at auction the furniture, merchandise, wearing apparel and hardware.

Signed: Lafreniere; Lenormand; Raguet.

Claims filed against the above property.

January 22, 1748. Claim filed by Layssard Bros. against proceeds of sale for debt. Signed: Layssard Freres.

January 22, 1748. Claim for 240 livres by Jacques Chauvin. Signed: Chauvin.

Receipt for proceeds of above sale.

April 5, 1748. Receipt to Mr. Henry before witnesses by Louis Langlois, under his usual mark, for 100 piastres for returns on sale of effects of deceased Mrs. Gervais.

Signed: Mark X of Louis Langlois; Chantalou; Lenormand.

30899.

Petition for sale of slaves belonging to estate of Widow Gervais.

January 24, 1748. Petition of Louis Langlois and Jacques Janis, tutor and subrogate tutor of minor heirs of Widow Gervais, for sale of slaves belonging to the estate of said Widow. Acknowledgment by Langlois that all titles, inventories and papers of said succession were turned over to him. Detailed account. Signed: Louis Langlois; Chantalou.

January 23. 1½ pp.

Suit to collect 240 livres due to Chauvin.

Petition to Superior Council for recovery of 240 livres, following accounts verified by MM. Olivier and Lesassier, by Jacques Chauvin, as Sr. Langlois refuses to pay said sum with interest. Signed: Chauvin.

Permit to cite.

January 23, 1748. Permit to cite. Signed: Lenormant.

Notice of citation.

January 23, 1748. Notice of citation served on Sr. Louis Langlois by Sheriff Lenormand.

Document stained, and with ragged edges.

January 24. 31007. 4471. 1½ pp.

Statement of slaves, cattle and provisions found on plantation of Widow Gervais.

Statement of slaves, cattle and provisions found on plantation of deceased Widow Gervais, situated at four and a half leagues from New Orleans. Done in presence of Sr. Joseph Fossier, neighbor of said plantation. Signed: fossier; Chantalou.

January 24. 1 p.

Complaint of an assault committed on a settler at Pointe Coupée.

Conclusion of Raguet, acting as Procureur General, on complaint of Francois Riché, settler at Pointe Coupée, brought on the 18th day of last September, by him as plaintiff and accuser against one Joseph Roy called Chatelleraul, defendant. The inquiry was made before Mr. Trenonay (Trenaunay) de Chanfret, acting as Judge in said place, by one Balquet, surgeon of said place, on the 4th of last October, and order communicated by Mr. Le Normant on the twenty-first of said month.

Decree in the above case.

Order that Joseph Roy, accused of assault on said Riché and his wife, appear before Mr. de Trenaunay, acting as Judge at Pointe Coupée, to be heard and interrogated on the facts of charges and inquiry, to be ordered thereon what shall appertain.

Signed: Raguet.

January 24. 4 pp.

Letter, correcting error in bill for merchandise, and denying charges against the writer.

Letter dated from Mobile, (no address), correcting errors of amount carried on Mr. Tixerant's bill, that the item was charged to no one, and that the writer made a note of it. There is also an error in the pelts charged to me at 1 livre, 5 sols, totalling 2317 livres, 10 sols, when the skins at 1 livre, 5 sols, amount to 1931 livres, for which I tendered 200 piastres in cash plus "700 francs" in dry goods, the whole amounting to "1700 francs". I returned 900 francs of brandy, and for the remainder of his bill I paid 1500 livres of debts between my associate and myself. He returned

to New Orleans dissatisfied. I was not embarrassed to owe him 200 francs. He will not pay freight nor cartage, not even my trouble. Try to make him understand. I would regret to frustrate him of a penny, but he must reason. If I satisfy you and am happy enough to drink to your health, I care not for the universe, aspiring only to leave a country where the poor are oppressed and the rich exalted, even if they be the greatest rascals of the earth. Write to me; you will lose nothing, and do not hand my papers over to any one whomsoever. Signed: Chapart.

January 25.

Petition of recovery.

Petition to Mr. Le Normant to cite Francois Roy, by Jean Baptiste Gueydan, Surgeon of the King, for payment of 32 livres, due by succession of Madame Gervais. Signed: "Gueydon"; Garic avt.

Citation and notice served.

January 25, 1748. Permit to cite and notice served on Louis Langlois, as tutor of minor heirs. Gervais succession in file of 1747.

Document with ragged edges.

January 27.

Petition for recovery of debt, and the judgment of Council thereon.

Excerpts from Registers of Sessions of Superior Council. Between Nicolas Judice, in the name of Jacques Judice, as his tutor, plaintiff, vs. Joseph Blanpain, defendant: The Superior Council considering petition presented by said Judice and the fact that said Blanpain is debtor for the sum of five hundred and fifty livres for the rent of three negroes and a negress, owned by the succession of Jacques Judice, adjudicated to Blanpain for the sum of 1100 livres per year, payable every six months, and that he is three months behind with first payment, he is condemned to pay the first term without prejudice to the current one, and to pay costs. The Council has given judgment in default against defendant, and ordered that he be cited again. Costs pending. Signed: By the Council. (Received five livres).

Notice of citation.

February 12, 1748. Notice of citation served on Sr. Nicolas Judice at his domicile, by Sheriff Lenormand.

Document stained, margins ragged.

January 27.
2½ pp.

Suit for land, Piquery vs. Boisclair.

Petition to Superior Council by Pierre Piquery, baker, vs. Nicolas Chauvin Boisclair, settler: He states that he was greatly surprised at Sr. Nicolas Chauvin Boisclair notifying him, that following petition of January 24th, he must accept the same quantity of land on frontage of his that was missing in depth of that which

was sold him. Sr. Piquery bought fifteen arpents of land, by the ordinary depth of forty arpents, to wit: eight arpents conceded by order of MM. de Bienville and Salmon, and the other seven coming from his share in the succession of Joseph Chauvin de Léry, his father, the whole for the sum of 1500 livres. Sr. Boisclair, to forestall his demand which the purchaser would undoubtedly make and surprise the Court, has presented a petition which is entirely false in its statement. The depth is cut off by the Concession Ste. Reine, but he does not say that that depth is owned by him, and to preserve his depth he offers the same quantity of land in front which is lacking in the depth. The petitioner demands no frontage, having enough with fifteen arpents to employ his hands. Wherefore, as Sieur Boisclair has much depth, and that that same depth cuts off that of the petitioner, he prays that Sr. Boisclair remit the depth which he sold, and if he has not enough, to condemn him to pay the pro rata of what he bought, and moreover to pay costs, damage and interest.

Signed: Piquery.

Document stained, and with ragged margins.

January 27.
No. 1142. 1¾ pp.

Citation of Joseph Roy for assault.

Session of the Superior Council, where were present MM. de Vaudreuil, Governor; Le Normant, First Councillor; received in the moment, D'Auberville. Francois Riché, settler at Pointe Coupée, plaintiff, vs. Joseph Roy called Chatellerault, defendant and accused. Considering inquiry and testimony given before Mr. Trenaunay, subdelegate at Pointe Coupée, on the 21st of last September, in proces verbal of by Surgeon Balquet of injury to Riché's wife, said Roy, accused of assault, is cited before Judge Trenaunay, on report of the whole to be ordered what shall appertain. Signed: Vaudreuil; Lenormant; D'Auberville; Lafreniere.

January 27.
No. 1140. 4 pp.

Judgments rendered at session of the Superior Council.

Session of the Superior Council, where were present MM. de Vaudreuil, Governor; Le Normant, First Councillor; D'Auberville, received in the moment: De Benac, Major; de la Freniere and Le Bretton, Councillors. Judgments rendered:

Chalair vs. Widow Baril.

1. Francois Chalair, plaintiff, vs. Marie Bret, Widow Baril: Council orders that the movables carried in the inventory of November 8th, 1745, be sold judicially, on the returns the sum of 150 livres to be paid to defendant for medicines and costs of court. Moreover, the sum of 600 livres for her dowry, following her contract of marriage, said Widow to hold said sum for security of the Baril minors. Succession to bear costs.

Layssard Bros. vs. Elizabeth Dupont.

2. Layssard Bros., plaintiffs, vs. Elizabeth Dupont, defendant: Before final decision Council orders (illegible). Costs pending.

Volant and Chauvin vs. Beaudreau Graveline.

3. Sr. Volant, as husband of Miss Chauvin, and Sr. Chauvin, her brother, plaintiffs, vs. Sr. Beaudreau Graveline, defendant: Council before decision orders that parties answer on the whole and report thereon. Costs pending.

Reboul vs. Liotaut, Martin, Meunier and Masson. Lafreniere retired.

4. Jean Reboul, plaintiff, vs. Francois Liotaut and Martin, Meunier and Masson, defendants: Council orders that work on house be continued without delay, and that the plaintiff pay 100 livres more as indemnity for said work. Costs compensated.

Judice vs. Blanpain.

5. Nicolas Judice, plaintiff, vs. Joseph Blanpain, defendant: Council has given judgment in default against defendant, who shall be cited again before Council at its next session. Costs pending.

Chauvin vs. Langlois. Lafreniere and Le Bretton retired.

6. Jacques Chauvin, plaintiff, vs. Succession of deceased Widow Gervais, Sr. Louis Langlois, tutor of minor heirs, defendant: Council orders that syndics be appointed by opposing creditors. Costs pending.

Vernay vs. Brazillier.

7. Louis Vernay, plaintiff, vs. Louis Brazillier called Tourangeau, defendant: Council has rejected demand of said Vernay and condemned him to pay costs.

Buquoy vs. Raguet.

8. Henry Buquoy called Plaisance, plaintiff, vs. M. Raguet, plaintiff and defendant: Before final decision Council orders to give proof that the cattle belong to plaintiffs and in answer to demand of M. Raguet, and condemns party who broke down the doors to 15 days imprisonment, with defense to repeat the offense under greater penalty.

Document stained.

January 27.

2½ pp.

Chalair vs. Widow Baril.

Excerpt from Registers of Superior Council. Between Francois Chalair, called Versailles, tutor of minor children of deceased Louis Assailly, called Tranche Montagne, and of deceased Therese Bret, plaintiff, vs. Marie Bret, Widow of Pierre Baril, former tutor of said minors, plaintiff and defendant: Council orders said Widow Baril to render account of the goods of succession of deceased Assailly and of deceased Therese Bret, with which deceased Baril was charged, and to pay costs. Said Marie

Defense of Widow Baril.

Bret, Widow Baril, pleads that she has little knowledge of her deceased husband's affairs; that, however, she knows that he was tutor to the Assailly minors, and that after his death she found a paper which seemed to be an account he rendered to M. Fleuriau, Procureur General of the King. As she always feared that her husband would dissipate the property of his wards, she removed his community and had complete and loyal inventory made of her husband's succession, which is proven by the annexed papers. Of her husband's succession she only claimed her dowry, costs of illness and funeral, and a small sum for her mourning apparel, amounting to 150 livres. She has five young children, all the community goods of her said husband amounting only to 209 livres, 10 sols, a lot of 30 feet, an old house which her husband acquired during his community, estimated at 600 livres. The whole seen and examined, the Council orders that the movables and lots carried in the inventory of November 18th, 1745, be judicially sold, and on the returns of these to reimburse the defendant the sum of 150 livres on one side for medical treatment and funeral expense, six hundred livres for her dowry, as per contract of her marriage, and the Procureur General demands that said Widow be held to give said dowry as security to the Baril minors, and the surplus to pay the Assailly minors what is due them.

Signed: By the Council; Henry, Greff.

January 27.

Record of session of Superior Council.

Session of the Superior Council, covering 8½ pages. Unsigned copy. Were present MM. de Vaudreuil, Governor; Le Normant, First Councillor; D'Auberville, received in the moment, to sit in Mr. Le Normant's place; De Benac, Major; de la Freniere, Le Bretton and M. Raguet.

Same cases reported as given above in No. 1140.

January 27.

3½ pp.

Suit arising from dispute over sale of two slaves.

Petition to Superior Council by Mr. de St. Martin, to whom Sr. de Chavannes sold a negress and her child. Sr. de Chavannes was being sued by Sr. Ancellin for 2400 livres, and he therefore offered the slave and her child to everyone in New Orleans and, after having discussed the price, he finally sold them to Sr. St. Martin for 2265 livres and delivered them. Sr. de Chavannes, former Secretary of the Superior Council, became a petitioner, awaiting funds from France, prevailed on Sr. St. Martin to carry out the third clause of the sale, which stipulated that he would buy the slaves at the same price fifteen days after the arrival of the King's ship at the Balize; the fourth article granted to Sr. Chavannes was carried in a separate act of sale, and was the remittal of said negress on a rent, on which payments Sr. St. Martin was making some difficulties. The

said plaintiff made under private seal the sale of a lot situated in the rear, the value of which was to be security for the payment of said rent. The negress was hired to Sr. de Chavannes almost against Mr. St. Martin's will, and he represented to Mr. de Chavannes that she earned for him 50 cts. per day by washing, and said de Chavannes made her hire 20 sols a day, which was to his advantage. It is then plain that Mr. de St. Martin has obliged an ingrate, who has only sought to infringe on the favorable conditions which were granted him. St. Martin prays that his demand be rejected and that he pay costs and charges.

Signed: St. Martin.

Document pale and torn, with ragged edges.

January 27. 3 pp.

Public notice of sale of real estate of succession of deceased Baril (or Bary).

Notification to the Public that on the dates here mentioned, January 27, February 4, and February 11, on petition of Francois Chalair, tutor of minor children of deceased Louis Assailly, sale will be made of a half lot and the buildings and improvements thereon, without reserve, owned by the succession of deceased Pierre Bary (elsewhere written "Baril") in this City on Royal street, which will be adjudicated to the highest and last bidder, who shall pay costs. Read, published and posted after High Mass at the door of the Church, and at the door of the Intendancy, by Sheriff Lenormand.

January 27.
No. 1141. 1 p.

Induction of Mr. D'Auberville into the Council.

Session of Superior Council, where were present MM. de Vaudreuil, Governor; Le Normant, First Councillor; De Benac, Major; de la Freniere, Le Bretton and M. Raguet, acting as Procureur General. Seen by the Council the commission granted to Monsieur Dauberville, on date of July 1st, which was read and published in a clear and distinct voice to all, giving him the right to serve as First Councillor in the place of Mr. Le Normant, after oath taken by him to respect the ordinances of the King, and on conclusions of the Procureur General of the King, Council received my said Sieur Dauberville, and in the moment he took his seat and registration ordered of his commission. Given in the Chamber of the Council, January 27th, one thousand seven hundred and forty-eight. Signed: Lenormant.

Document stained, with torn margins.

January 27.
No. 1142. 2 pp.

Judgment rendered between Riché and Roy called Chatellerault.

Francois Riché, settler at Pointe Coupée, plaintiff, vs. Joseph Roy called Chatellerault, accused and defendant: Considering the proces verbal of injury to Riché's wife, by Balquet, surgeon of said Post, on October 4th, and order to communicate to the Procureur General of the King, the

Council has ordered and does order that said Chatellerault, accused of assault on the persons of Riché and his wife, be cited before Mr. de Trenaunay, acting as Judge at Pointe Coupée, to be heard and interrogated on the facts, inquiry made and the whole reported, to be ordered thereon what shall appertain. Signed: Lenormant; Vaudreuil; D'Auberville; Lafreniere.

January 28. 2 pp.

Judgment between Boisclair and Piquery on land missing in sale.

Petition to Superior Council by Sr. "Nicolas Chauvin de Boisclair," plaintiff, vs. Sr. Pierre Piquery, baker, defendant: Council interprets the sale between the plaintiff and defendant by saying that the land turned over to Sieur Piquery must contain five hundred and twenty-five square arpents, on fifteen arpents frontage and a depth of thirty-five arpents, which is the greatest depth. The limit terminates at the line of the land sold to Piquery and Verret, adioining the concession of Ste. Reine, serving as a limit for the land acquired by Piquery from Sr. Boisclair. In consequence and in conformity of the said sale, fifteen arpents frontage shall be measured on the River, and at the point where the fifteen arpents terminate, a straight line shall be drawn towards the point E (see annexed plan), which shall be a partition line next to the Ste. Reine Concession in the depth; and as by this operation Piquery will not have his 262 square arpents, we condemn Sr. Boisclair to reimburse Piquery for half of the price of sale, unless Sr. Piquery prefers to take the 225 arpents on the river, still holding for the depth to the partition line, on which option Sieur Piquery shall be held to declare himself in eight days.

Signed: Vaudreuil; Lenormant.

Plan used in suit.

March 2. 1735. Plan to serve in suit betwen Srs. Piquery and Boisclair.

1 p.

Excerpt from registers.

January 27, 1748. Excerpt from the Registers on titles of the land conceded.

September 30, 1732. (For the succession of Mr. de Léry.)

Copy of a petition submitted in this case.

April 26, 1724. Mr. Rossard showed Broutin a petition of that date, on which were granted to Sr. Joseph de Léry, Nicolas Boisclair and Antoine des Islets six arpents each, which makes eighteen arpents, which were not conceded to any others. It is between Verrette, who is above and adjoining the Ste. Reine Concession, which is situated below him. Signed: Broutin.

Document dated, January 27, 1748.

January 29. 2 pp.

Examination of consignment and inventory of same before witnesses.

Proces Verbal of Acknowledgment. On request of Mr. Louis Morisset, the Greffier of the Superior Council (Nicolas Henry) went to the house of M. Voisin, where is the store of M. Macarty, captain of L'Aurore, now anchored in this harbor, to examine some bales and cases consigned to Sr. Morisset by Sr. Lamaux, wholesale merchant of La Rochelle, as said Morisset has received no invoice from the sender, and that one of the cases appears to have been opened and damaged, he requested M. de Macarty to be present at the opening of said case when contents were examined, to describe what it held, which he refused, wherefore MM. Voisin, St. Martin Jauryguibery, and Chauvin, in whose presence it was opened. Description of marks, number, how tied, etc., and some boards opened through which he thinks that merchandise and hardware may have been drawn, and inventory made of said contents, which was signed by Norisset; St. Martin; P. Voisin; Chauvin; Henry, Greff.

January 29.
31012. fo. 3.
4473. 1¼ pp.

Procuration to serve in the settlement of a succession.

Procuration granted before Notary Royal of Louisiana by Gabriel Fusilier (should be "Fuselier de la Claire"), a native of Lyons, (France), son of age of Pierre Fusilier and Dame Lugdivine Chanfouroux, merchant of the City of Lyons, to . . . (blank) . . ., empowering him to receive from said Dame Chanfouroux, his mother, heiress instituted by his father, Pierre Fusillier, in his last will, received by M. Pierre Vernon, notary of Lyons, on the last day of September, 1732, and also the interest due at the time of payment, at the majority of said constituent.

Signed: Fuselier de la Claire; Chantalou; Lenormand; Henry Nore.

January 30.

31014. fo. 3. 3 pp.

Deposit made in settlement of a succession, and receipt for same.

Deposit by Capraise Mathieu. Before Notary Royal and the undersigned witnesses appeared Sr. Marisal and Miss Jeanne Descayrac, brother and sister, co-heirs of the deceased Sr. Antoine Descayrac, instituted by the death of Calixte Descairac, who died in New Orleans, by his will of September, 1738, wishing to put in possession of said succession, which is in the hands of Sr. Gerard Pery, who took charge of it in the absence of Mr. de Coustillas, executor named in testament, have constituted as their attorney Sr. Capraise Mathieu, settler and indigo maker, in New Orleans, Province of Louisiana "at the Mississippy", to whom said constituents give full power to take entire charge of said succession, in cash or effects, inventory of which was made on the 25th of Septem-

ber, 1738, the whole of which was sold at auction and the returns thereof deposited in the hands of Sr. Pery, who gave his receipt. Done and passed in the City of Aiguillon on the sixth day of September, 1747, after noon, in the presence of M. Bertrand Verdolin, Greffier in said City, and Dr. Francois Lacroix, burgher of said place, and other witnesses.

Signed: descayrac; verdolin; Lacroix; Miraben, notary royal.

Receipt for deposit. Signed: Chalbet.

Certificate. Signed: De Massac, juge principal; Chalbet, greffier.

31017. **Deposit of procuration.**

January 30, 1748. Deposit of procuration in Notary's office by Capraise Mathieu. Signed: Mathieu; Henry, notary.

(To be continued)

INDEX TO THE SPANISH JUDICIAL RECORDS OF LOUISIANA XLVIII.

July-August, 1782.

(Continued from October, 1935, Quarterly)

By LAURA L. PORTEOUS.

With Marginal Notes by Henry P. Dart, (when not initialed)

Spanish officials appearing in this installment:

Esteban Miro, Colonel of the Fixed Regiment of this Place and Acting Governor of this Province.

Martin Navarro, Intendant General of this Province and of the Royal Treasury.

Juan Ventura Morales, Chief Accountant for the Army, Intendant ad interim for the Royal Treasury of this Province of Louisiana and West Florida and Subdelegate for General Superintendence (1802).

Alcaldes: Jacinto Panis; Guido Dufossat; Francisco Josef Le Breton D'Orgenoy (1783); Juan Ventura Morales (1783); Francisco Maria de Reggio (1784); Nicolas Forstall (1785).

Escribanos: Rafael Perdomo; Leonardo Mazange; Fernando Rodriguez (1783); Carlos Ximenes (1802).

Attornies: Francisco Broutin; Fernando Rodriguez; Luis Liotaud; Pedro Bertoniere (1783); Antonio Mendez, 1785).

Assessors: Juan Doroteo del Postigo; Manuel Serrano (1802).

Appraisers: Narciso de Alba; Juan Baptiste Macarty; Augustin Favre; Espiritu Lioteau; Francisco Bijon; Adrien de la Place; Pedro Cowley.

Nicolas Fromentin, Deputy Sheriff.

Francisco Seimars de Belisle, Commander of the Parish of St. Charles.

Esteban de Vaugine, Commander of the Post of Natchitoches.

Alexandro de Clouet, Civil and Military Commander of the Posts of Atakapas and Opelousas.

July 1, 1782 (1802).

Juan B. Labatut vs. Estrada and Donde of Campeche.

No. 41. 3 pp.

Court of Alcalde
Juan V. Morales.
Assessor,
Manuel Serrano.
Escribano,
Carlos Ximenes.
To collect a debt.

This case is interesting as an illustration of the commercial relations of Louisiana with other parts of the Spanish colonial possessions in the new world. It is erroneously filed with the documents for 1782, although it properly belongs in 1802.—W.P.

In error this record is filed under the year 1782, but belongs to 1802. Herein Juan B. Labatut states he is a creditor of Messrs. Estrada & Donde of Campeche for 330 hard pesos 1 real, according to a letter Juan de Echeveste has received from them. This amount is a part of the 1116 pesos 2 reales, that was deposited to the account and risk of Enrique Endebio Amorrosta, resident of Havana, who has given orders to Juan de Echeveste to take the full sum to cover the losses that have been sustained between Estrada & Donde and Amorrosta. Therefore he prays that Echevesta be cited to make a declaration that the petitioner's debt is just, and if it was not mentioned in the aforesaid letter; and may it please the Court to order the 330 pesos 1 real, now in Echeveste's possession seized. Juan Ventura Morales, on Manuel Serrano's advice, orders the declaration made, and done return it to the Court.

Juan de Echeveste declares under oath that Juan B. Labatut's foregoing petition is true in all its contents, for the part that concerns the 330 pesos 1 real, and also that the witness has received a letter from Messrs. Estada & Donde of Campeche, dated the 21st of last May, stating that they owe this amount to Mr. Labatut. Morales, on Serrano's advice, rules: Notify Juan de Echeveste, by way of embargo, to retain in his possession the 330 pesos 1 real that he has declared is due Juan B. Labatut from Messrs. Estrada & Donde of Campeche until another decree is rendered, with a warning of his responsibility. Assessor's fees, 10 reales.

Later Juan Echeveste signs a declaration that he retains in his possession, through a provisional seizure, at the disposition of this Court the 330 pesos 1 real. This ends the record.

July 2.

Proceedings brought by Antonio Lague to prove the shipwreck of the Brigantine Nuestra Senora del Carmen.

No. 10. 345 pp.

Court of Alcalde
Guido Dufossat.

No Assessor.

Antonio Lague, Captain of the Brigantine, Nuestra Señora del Carmen, belonging to Geronimo Lachapelle, merchant of this city, in due form, by right and without prejudice appears and says that in accordance with a passport granted to him to sail for London under the necessary orders and bonding for the return trip and having arrived at his destination in due course after re-

Escribano, R. Perdomo.

This case is of particular interest to the student of Louisiana law, as illustrating the procedure involved in the fixing of responsibility for and the settlement of marine losses in the Spanish period. It is of great value to the student of Louisiana history for the light it throws upon the practice of marine insurance and the variety and character of the merchandise being imported into Louisiana from London at that date, as illustrated by the inventory of the cargo of the wrecked vessel.—W.P.

ceiving a permit from the Custom House he began the return voyage to this Port on the 15th of last April. He reached the Balize on the 18th of last June and on that day they took the necessary bearings and soundings, and the day following, the 19th, proceeded to the entrance so as to ascend the river for this anchorage. When at a distance of two leagues from the said Balize, opposite the Pass called "Lutra" the said brigantine was wrecked because of having run upon a submerged mast of a sunken ship, as all is given in greater detail in the Protest which accompanies this. In consideration of which it will be clearly seen that the wreck could not be avoided or prevented as he fulfilled all his obligations to the best of his ability, and so as to better confirm this, may it please the Court to admit the testimony of the witnesses he will present, who will testify under oath in due form of law, and that their evidence be given without delay, and done deliver their declarations to him so that he may promote what is convenient to him. He further prays to present the said protest. Dufossat rules: Receive the testimony offered, and let the witnesses swear and declare as petitioned, and done deliver to him; let the copy of the protest be received which has been given as explained.

The Protest.

The certified copy of the protest reads, in part: In the city of New Orleans on July 2, 1782, before the undersigned notary and witnesses appeared Antonio de Lague, Captain of the Brigantine. Nuestra Señora del Carmen. belonging to Geronimo Lachapelle, which left this Port for London to carry freight for Benjamin Gouber. Santiago Mather, Santiago Farly and Juan Tait, residents of Pensacola; the ship having sailed from London on the 15th of last April for this Port in charge of Captain Lague. it arrived at the Balize on June 18th last, and on the same day they took first soundings and bearings and on the day following, the 19th, they attempted to sail up the river with a good course and a fresh east wind. When about two leagues from the Balize, opposite Pass à L'outre on the other side of the river they encountered a submerged mast embedded in the bottom of the channel which struck the ship below the port and notwithstanding the zeal, vigilance and care of the Captain, quartermaster and crew, who were all employed on their watches, they could not see the mast because it was under the water, and running into it was so unexpected. It was not possible to make repairs, although they took prompt and active means to do so, as the violence and force which ran the ship upon the said submerged wreck tore a hole in the hull up to the foremast where

it is fixed to the keel, which caused it to sink. It was a miracle that all on board did not perish. Considering that Captain Lague is not culpable in the matter of the wreck and loss of the brigantine, he protests for the first, second, third and as many times as are necessary according to law as he can and must because the loss was not caused through lack of care nor his fault, and in accordance with this the injuries, damages, prejudices and losses occasioned are not to be held to the account and risk of the grantor.

Owner asks to to abandon the wreck.

Geronimo La Chapelle petitions, saying he is the owner of the wrecked brigantine and also the consignee of its cargo, which were insured in London, in virtue of which, and so as to prevent any prejudice to him either now or at any time he protests and abandons the wreck in due form as he has already related in an act the certified copy of which is duly attached to this. In consequence whereof, may it please the Court to declare him free and exempt from all responsibility and that whatever may be salvaged from the wreck will revert to the underwriters. Dufossat receives the certified copy of La Chapelle's act of abandonment.

Certified copy of abandonment.

In the city of New Orleans, July 10, 1782, in the presence of the undersigned Notary and witnesses appeared Geronimo de la Chapelle who said he loaded his brigantine, Nuestra Señora del Carmen, with freight for Benjamin Gouber, Santiago Mather, Santiago Farly and Juan Taut (Tait), residents of Pensacola, in conformity to the agreement made on May 9, 1781, with the necessary permits to carry on his ship to London the different products of this Province as appears from the contract drawn up in this city, June 30, 1781, before Andres Almonester, Notary Public. The ship arrived safely under the command of its Captain, Antonio Lague, who fulfilled all the conditions stipulated in the agreement. He insured the said Brigantine in the city of London according to the customs of trade so that it would arrive safely in this Port, and not accomplishing this the said underwriters would pay the full amount of the policy. Considering that the Brigantine was wrecked on the 19th of last June, about two leagues from the Balize, opposite Pass à L'Outre on the other side of the river, without it having been possible to save the ship, or its contents, he protests for the first, second and last time which according to law he can and must do so as to claim the sum for which they were insured. For this purpose he desists, abandons and withdraws from all action, right, possession and ownership that he may have in the Brigantine and its cargo. He further cedes, renounces and transfers to the underwriters, who are the owners of the hulk of the ship and what can be saved from the wreck. And so that this abandonment and desistance may be for all times and may appear in the best form

that may have place in law, it has been reduced to public writing so that it can be used for what is suitable where, when and as most convenient. Signed and witnessed before Rafael Perdomo, Notary Public, Antonio Mendez, Jose de Llanos and Luis Muros.

Captain de Lague petitions.

Antonio de Lague, Captain of the Nuestra Señora del Carmen, in the proceedings he has brought to prove its wreck, for the benefit of the underwriters, petitions, asking that it may please the Court to order Espiritu Leotaud, Jr., Simon Dubal (Duval) and Arnaud, River Carpenters, to declare under oath that they have seen the wrecked Brigantine and its cargo, and if they think there is any possibility of raising it from the bottom of the river with the necessary apparatus, and if this operation seems to them would be of any benefit to the underwriters. He further asks to have an attorney (Procurador del Numero) of this city appointed to represent the absent underwriters. Petition granted. Later Guido Dufossat rules: Whereas, attentive to the representation of Geronimo La Chapelle and the document of abandonment he has produced of the ship and its cargo that was wrecked, His Honor says: That therefore he must have and does have it inhibited and withdrawn in conformity to the explanation in the above cited libel. And with regard to what Don Antonio Lague has set forth in his written document on page — and its contents let them (the carpenters) swear and declare as has been solicited, committing this proceeding to the present Escribano. For what concerns the attorney that he asks to have named to represent the persons of the said underwriters, this petition is denied because of the increased costs entailed if his demand should have effect. In consideration of which it makes the naming of a subject of trust and intelligence indispensable to take charge of the goods that may be salvaged and this same to state his right to assist them; His Honor names and does name as administrator of the said property, Santiago Meder (Mather). Let him be notified so that he may accept and take oath in due form, and done let all be brought to the Court to promote what is convenient to his representation. Santiago Mather is notified and qualifies as administrator.

Declarations of the carpenters.

Espiritu Liotaud, Simon Dubal (Duval) and Antoine Arnaud, each in a separate declaration, set forth that having gone to the place where the wrecked Brigantine "Nuestra Señora del Carmen" lies, they examined it and according to the state in which they found it there is no doubt but that the ship can be saved at the cost of great labor and expense, but that the recovery of the vessel and its cargo may be made and although damaged will be favorable to the underwriters. At least they can break into the part of the ship which is exposed in case it is not possible to raise the brigantine.

Proceedings for citation. On the said day, month and year (October 3, 1782), the Escribano, in virtue or the order received, went to look for Monsieur Cadet, so as to take his declaration, and was informed that he is in Natchez.

Santiago Mather petitions. Santiago Mather, administrator named to look after the effects belonging to the underwriters, says that an order was given to deliver the records of the case to him so that in accordance with them he may promote what is convenient to the rights of his clients, and for this purpose he asks the Court for the necessary license to salvage the ship and its cargo. Dufossat orders this petition sent to Antonio Lague.

Captain Lague answers. Antonio Lague answers, saying he has received Santiago Mather's petition in which he asks permission from this Tribunal to go to the wrecked brigantine so as to salvage whatever is possible, for the benefit of the underwriters. In accordance with this request he prays the Court to concede this license so that he may make recovery for his clients. Dufossat rules: Concede to this party the permission he requests, with the understanding that he must present to this Tribunal the results of these proceedings together with an account and sworn statement that will show the legitimate and true costs of the undertaking, so as to pay them for the underwriters, and done let all be returned to the Court.

Mr. Lague further petitions. Antonio Lague again petitions, saying that he presented a written document at the beginning of these proceedings, offering to give information about the wreck, and although this request was admitted, the evidence was not taken. Since then the witnesses, who were of value to him, have been working on board the ship in accordance with the permit which this Tribunal granted to Santiago Mather, administrator, and defender of the underwriters. With the reparation of the ship and the salvage of the cargo they have returned to the city, therefore he prays the Court to order them cited so as to receive their testimony. Dufossat rules: Let the order given in the decree of July 2nd of this year, be carried out, and done let all be returned to the Court as requested.

Testimony of the witnesses. The witnesses, Francisco de Balson, pilot of the brigantine, Nicolas Ochen, quartermaster, Onore de Layo, ship carpenter, Angel ——— (name eaten away), sailor, Pedro Lorusa, sailor, Antonio B——— (rest destroyed by insects), Nicolas Rafina, sailor, ——— Gonzales, sailor, each in a separate declaration, set forth that they sailed from London on the 15th of April of this year, for New Orleans, and arrived at the Balize on the 18th of last June, where they took soundings according to the

customs of this Port. On the following day, the nineteenth, they set sail, so as to ascend the river with a good course and fresh east winds. When at a distance of two leagues from the Balize opposite Pass à L'Outre on the other side of the river they ran into a submerged mast embedded in the bottom of the Gulf which struck below the port. The brigantine had a load of wood at the prow and was hit in such a manner that not only was the part broken where the mast entered, but also the port bridge. No one on board could see the mast because it was entirely covered by water and notwithstanding the zeal, vigilance and care that the witnesses, as well as the Captain and all the others, took to mount the river and to prevent them from being driven against the numerous palisades by the strong current of the river which carried them ashore. However, Captain Lague and others on board managed without loss of time to take the most efficacious means to prevent greater damage. There was no way to repair the vessel because of the suddenness and force of the blow from the submerged mast which tore a hole in the Nuestra Señora del Carmen up to the base of her mainmast. The boat and the launch not having arrived they moored by the stern from which point all the crew and other persons on board came ashore. Undoubtedly all would have perished if the necessary manoeuvres had not been made. Then Dufossat rules: Whereas, deliver the papers in this matter to Santiago Mather, so that upon seeing the information that Antonio Lague has presented he can promote what is convenient to the rights of his clients.

Santiago Mather answers.

Santiago Mather answers, saying they have delivered to him the material in this proceeding furnished by Antonio Lague to be used to promote the best interest of his clients. After mature reflection he finds that Captain Lague was in no way responsible for the wreck of his ship, nor the loss of its cargo, and that he fulfilled all the obligations and duties of Captain. The fault lies with the swift current of the river and the number of the palisades which annually cause the loss of many ships. Therefore he will take no action against Antonio Lague, but on the contrary he will leave to him and hold him in his good reputation and high esteem which he has always held. Alcalde Dufossat orders this sent to Lague.

Antonio Lague answers.

Antonio Lague petitions, saying he has received the petition presented by the administrator and defender of the underwriters and "considering that he makes no charges against my conduct and completely exhonorates me for the loss of the ship, may it please the Court to absolve me and to declare me free of all responsibility in the affair, and at the same time to approve the testimony given in my favor and for its greater force and validation to interpose its authority and judicial decree inasmuch as

it has place in law." Guido Dufossat rules: Whereas, in consideration of what the administrator has set forth for the underwriters and the answer that Antonio Lague has made, and also considering the testimony the latter has produced and all the rest that is worthy of being taken into account, His Honor says that in the administration of justice he must declare and does declare the loss of the ship and its cargo as lawful and that Captain Lague has complied exactly with the duties of his charge to this end; and so that the foregoing may have greater force and validation he interposes and does interpose his authority and judicial decree inasmuch as it has place in law.

Santiago Mather petitions.

Santiago Mather petitions, saying that in consequence of having salvaged the brigantine and its cargo which arrived at this anchorage the 21st of last September may it please the Court to order, so that the underwriters may not sustain a total loss, an appraisement of the ship and its freight by intelligent persons. For this purpose he names to the office Narciso de Alba and Juan B. Macarty. He asks to have them notified so as to accept and take oath, and done assign a day and hour for the appraisement. He further petitions, saying that in order to arrive at a true value of the brigantine by means of an estimation it will be necessary to have Espiritu Lioteau and Augustin Favre likewise name appraisers, but before doing so they must comply with all legal formalities. Alcalde Dufossat approves the experts named in the foregoing petition and orders them notified so they may qualify, and done return all the matter to the Court in order that the day and hour may be assigned for the appraisement as requested.

The experts accept.

Juan B. Macarty, Narciso de Alba, Augustin Favre, Master Calker, and Espiritu Lioteau, Master Carpenter, each upon being notified accepts and takes oath to act as appraiser. Guido Dufossat rules: Whereas, let the 10th day of the current month at 9 o'clock in the morning be assigned for the estimation and placing a just price on the ship and her cargo. Notify the parties on this.

Inventory and appraisement.

The inventory runs from the reverse side of page 47 to the reverse side of page 149, and is made in the presence of Alcalde Guido Dufossat, Escribano Rafael Perdomo, Santiago Mather, administrator, Narciso de Alba and Juan B. Macarty, expert appraisers. They went to the warehouse where the effects were held, and all parties being there present, His Honor ordered the inventory and appraisement made in the following manner: Thirty two hogsheads of china valued at 240 pesos; the ship with two large anchors and one small one, a bell, two pumps, a mainmast and bow-sprit estimated at 3000 pesos; forty-one barrels of nails at 1405 pesos; thirty-one barrels of beer at 500 pesos;

and so on with the ship's cargo which shows listed as freight such items as whetstones, stone coal, a trunk containing various effects, 200 pounds of pepper at 170 pesos, remnants of covering, dry goods and materials measured by the ell, such as Limbourg, woolen stuffs, blue and various colors, 16 ells of purple cloth, hats, tin-plate jars, silk material, cotton handkerchiefs, plain and colored; white flannel, boots, bunting, muslin, blue striped stuff, Irish linen, Bretaña (Bretagnes, a sort of fine linen), "Sirscaca" linen, thread, handkerchiefs, velvet, cotton goods, camlet, pieces of chintz, silk stockings, cotton and thread stockings, taffeta silk, feathers (plumes), nankeen cotton, ribbon, point and silk lace, 150 pounds of crude thread, calico, white linen, nankeen cotton coverlets, bed-ticking, cables, riggings for the mainmast, sails, a stream-cable 3 inches thick, cordage, main sails, 1 inch cords, sounding lines, lamps, candlesticks, coffee pot, bridles, saddles, saddle girths, fishing net, canvas, white cordage, 2 barrels of meat, 1 barrel of red ochre, marmalade, 4 large saws for saw-mills, a clock, medicine chest, "fruit of mustard," no value, because useless, 1 barrel of smoked fish, 10 barrels of paint, 1 barrel of sulphur, 18 bottles of linseed oil, 3 barrels of butter, iron flower pots, 3 pianofortes, etc. This concludes the inventory. There are 388 entries; the accountant discontinues adding up and carrying forward after item no. 88. At this point the articles entered amount to 11366 pesos 6 reales.

Request for auction sale. Santiago Mather asks to have the salvaged ship and its cargo cried for sale at public auction. Petition granted. The three calls are made October 24, 29, and November 2. Thereupon Mr. Mather asks to proceed with the sale of the "Nuestra Señora del Carmen", together with its cargo, and to name a day for the auction. Alcalde Dufossat names the day following, the 6th of the current month of November, as the day for the sale.

The auction. The 388 items are offered for sale in the same order in which they are inventoried, running from page 153 to the reverse side of page 331. The sale took place in the warehouse where the salvaged cargo was stored. There were present Alcalde Guido Dufossat, Escribano Perdomo, Santiago Mather and the various bidders. The first item to be offered was the 32 hogsheads of assorted china, bid in by Narciso de Alba for 2850 pesos. Next the brigantine with all its anchors large and small, bell, two pumps, great mast, bow-sprit, etc., bought by Bonocio Roura for 3500 pesos. The 41 barrels of nails were taken by Marcos Olivares for 2000 pesos, and 31 barrels of beer were also bought by Olivares for 530 pesos; and so on with the whetstones and

other articles. The three trunks numbered 92, 178 and 179 contained knives, forks and various other effects and were knocked down to Mr. Olivares. Geronimo La Chapelle bought 200 pounds of pepper for 153 pesos.

Approval of the auction.

Santiago Mather petitions, saying: Considering the auction sale of the brigantine and its cargo has been finished, may it please the Court to order it approved in all its parts, and for its greater validation and force to interpose its authority and judicial decree. Guido Dufossat rules: Whereas, attentive to the representation by Santiago Mather, as set forth in his written petition, His Honor says he must approve and does approve, in all its parts, the sale held of the cargo and ship named "Nuestra Señora del Carmen", for this purpose he interposes and does interpose his authority and judicial decree as according to law he can and must.

Account and sworn statement.

Santiago Mather, administrator named for the recovery of funds due the Insurance Company as a result of the sale of the effects salvaged from the shipwrecked brigantine, "Nuestra Señora del Carmen", presents his account and sworn statement of the expenses incurred to save the wreck, as well as what was realized from the judicial sale and the liquidation of what remained for the benefit of the underwriters. There is a list of the articles purchased, principally provisions to feed the laborers who were sent to the Balize to repair the ship and recover the cargo, also for hire of slaves and workmen together with all disbursements for salvage and sale, as well as salaries and wages due the Captain, officers and crew for the trip from London to the Balize. Expenditures amount to 22607 pesos 6 reales. There were other sums paid out, such as administrator's fees, 1000 pesos, warehouse charges and sale of effects, 7½% or 2907 pesos 5 reales, besides a payment made to Mr. Valery y de Laix of 132 pesos, for adjusting and prorating the effects and drawing up a general account of the transaction in English money. The underwriters, or owners to receive 12121 pesos 1½ reales. The amount realized in account current with Santiago Mather for the sale of the ship and its cargo comes to 38768 pesos 4½ reales.

Mr. Mather asks approval of accounts.

Santiago Mather petitions, saying that by a decree of July 23rd he was ordered to present an account and sworn statement of the expenses incurred through the sale held of the effects and ship salvaged. This he has done and duly presents it to be filed with these proceedings. He asks to have same approved in all its parts, His Honor to interpose his authority and judicial decree for its greater validation and force. Alcalde Dufossat accepts the account and further rules: That he must approve and does approve it in all its parts, and for its greater validation

and force interposes and does interpose his authority and judicial decree as by law he can and must.

Request for taxation of costs.

This is followed by another petion from Mr. Mather, asking for a taxation of costs by the Escribano, who must supply the certified copy that he will need to present to the underwriters. This copy must be authorized in public form in such a manner that it will have credit; the said underwriters will promptly satisfy the legitimate fees. Alcalde Dufossat rules accordingly, provided the party pays all just and due fees.

A marginal note says that a certified copy of these proceedings was drawn up in five hundred and fifty six pages, which the Escribano attests he gave to Mr. Mather in New Orleans, December 30, 1782.

The taxation of costs amounts to 825 pesos.

July 6.

Juana Auclair petitions for a permit to sell her mulattress slave named Margarita.

No. 48. 2 pp.

Court of Alcalde Panis.

Assessor, Juan del Postigo.

Escribano, Rafael Perdomo.

This case is of interest as illustrating the legal formality required in Spanish Louisiana in order to secure permission to sell a slave, in which minor heirs have an interest.—W.P.

Juana Auclair asks for a permit to sell her slave, Margarita, aged forty years, inherited from her late husband, Pedro Mioton, so as to liquidate some of the debts of the succession, and besides she has chronic lung trouble. Mariana, a free mulattress, mother of Margarita, proposes to buy her for 400 pesos. Therefore she prays for the necessary permit and act of sale for this transaction, as her two children have consented to it. This petition is signed by J. Mioton and Adelaide Mioton. Alcalde Panis, on Postigo's advice, rules: Considering the representation made by Juana Auclair, with the consent of her two children, concede her the permission to sell Margarita, and execute the necessary act of sale for this purpose. This ends the record.

July 17.

Executory Process, Pablo Paules Palmero vs. Francisco Bernoudy.

No. 13. 2 pp.

Court of Alcalde Panis.

No Assessor.

Escribano, Rafael Perdomo.

To collect a debt.

Pablo Paulis Palmero, Captain of the King's bilander called "La Maneta", says that Francisco Bernoudy owes him 31 pesos 6 reales for the capture and support of his fugitive negro slave brought from the Rigolets to Bayou St. John. He asks to be paid. He further states that Francisco Aguir (Aguilar) is a debtor to Bernoudy for the rental

This suit to collect a debt is of interest for the procedure used, the Court allowing the creditor to collect his obligation by levying against funds due the debtor by a third party.—W.P.

of a house, so he prays the Court to order the former to liquidate his accounts, so that he may be paid from this source of income, Aguilar to turn over his rent to the Escribano for this purpose. The Court rules: Let the sum of 31 pesos 6 reales be seized, which is in the possession of Francisco Aguilar, that he owes to Francisco Bernoudy, in response to this demand. The last entry is a signed statement by Rafael Perdomo to the effect that he went to Francisco Aguilar's house and notified him of the foregoing decree, who says he obligates himself to hold in his possession, by way of embargo, the 31 pesos 6 reales which the foregoing decree orders him to retain, which is a part of a larger amount that he must pay to Francisco Bernoudy, under pain of liability, until another decision is rendered by this Tribunal.

July 18.

Executory Process, Leonardo Mazange vs. Josef Maria Arman.

No. 16. 2 pp.
Court of Alcalde Jacinto Panis.
No Assessor.
Escribano, R. Perdomo.

To collect a debt.

This case illustrates the procedure followed in collecting a debt due to a resident of New Orleans by a resident of Natchitoches.—W.P.

Leonardo Mazange sets forth that according to the public instrument which he duly presents Josef Maria Arman, a native of Natchitoches, owes him 551 pesos 2½ reales, and he prays for a writ of execution against the person and estate of the defendant for this amount, its one tenth and costs. He further asks, as his opponent lives in Natchitoches, where all his property is located, for a writ of despatch to be issued and sent to Esteban de Vaugine, Commander of the said Post, with an enclosure of this petition authorizing a writ of execution. Alcalde Jacinto Panis rules: Considering the first petition, Mazange having presented the obligation, despatch a writ of execution against the person and estate of Josef Maria Arman, resident of the Post of Natchitoches, for 551 pesos 2½ reales, together with the one tenth and costs, in due form committing it to the Commander of the Post. In the second petition, issue the despatch he solicits, sending it to the aforesaid Commander, Esteban de Vaugine, with an enclosure of the petition and its ruling, and also the certified copy given the Court by the plaintiff, and done let Alcalde Panis be notified, punctually, through the Escribano of its fulfillment. The end.

July 19.

Christobal de Armas y Arcila petitions for a certified copy of the act of baptism he has presented.

No. 15. 3 pp.
Court of Alcalde Jacinto Panis.
No Assessor.

Escribano, Rafael Perdomo.

This case, involving the granting of a certified copy of a certificate of baptism to a citizen born without the limits of Louisiana—perhaps desired for purposes of identification—is interesting as illustrating the legal procedure necessary in such a matter.—W.P.

Christobal de Armas y Arcila petitions, saying that for ends convenient to him he asks to have the Escribano make him a certified copy of his act of baptism, which he has duly presented and for which he will promptly pay the just and due fees. Panis rules accordingly. The copy of this act reads: Christobal Manuel Martinez y Mendes holding a proper benefice from His Majesty for the Parish Church of Salvador in the city of San Miguel de la Palma, attests that in Book —— of the Archives of the Parish Church there is an entry of a baptism to the effect that: "In the Parish Church of San Salvador of the city of Santa Cruz in the Island of San Miguel de la Palma on the 23rd day of the month of April of one thousand seven hundred and fifty four, I, Father Christobal Vinatea y Thorres of the "Orden de Predicads" (Dominican), licensed by Señor Don Pedro Velez y Pinto, Beneficed Vicar of the Parish Church, Examiner and Commissioner of the Holy Office of this Island, baptized a boy born the 16th of the said month, legitimate son of Miguel de Armas and Petronila de Salazar. He was named Christoval Torivo (Torivio). The god father was Santiago Fierro. Signed, Pedro Valez and Christoval Vinatea." The certification to the above act in the original is signed Christoval Martinez. There is a further certification by the Notaries of the Island, dated August 29, 1776, in the Noble and Loyal City of Santa Cruz, Island of San Miguel de la Palma; Signed, Fernando Joseph de ——— (illegible), Manuel Antonio de Salazar, Andres Philipe Kavana. This record is in very bad condition.

July 22.

Gabriel Peyroux de la Roche Molive vs. Mauricio Milon, over building a house.

No. 3447. 38 pp.

Court of Alcalde Panis.
Assessor, (none named).
Escribano, L. Mazange.

The record opens with a certified copy of a Notarial Act appointing Fernando Rodriguez attorney; and he in the name of his client petitions, saying that he has contracted with Mauricio Milon to build a house for him in this city, the price of which he will pay in 18 months. He agreed to begin work immediately, and not only has he neglected to finish, but what he has begun

This suit, arising out of a disagreement over a contract to build a house, according to certain specifications and within a specified time, is interesting as showing the legal procedure necessary to try to compel the contractor to abide by the terms of his contract and to render justice to the plaintiff in the case.—W.P.

is so badly done that it will have to be taken down and built over again. In virtue of which and considering that it is Milon's intention not to finish, he prays that he be ordered to do so within a short space of time, with the condition that if his work is not complete within the time specified he will pay the petitioner 30 pesos a month, which is the least he will have to spend for rent and is the same amount that he has failed to receive for more than a year. He further prays to have his opponent name two intelligent experts, who will, together with the two experts named by him, examine the work done on the house. Panis orders this petition sent to Milon.

Mr. Peyroux again petitions.

In a second petition, Peyroux says Milon lives on Mr. Gentilly's plantation, so he prays for a writ of citation to be entrusted to a competent person for delivery. Petition granted. A marginal note states that the writ which was ordered has been issued. The writ; and then Nicolas Fromentin, deputy sheriff, records that he went to Mr. Dreux' plantation, two leagues away from the city, and served the writ of citation on Mr. Milon, who failed to answer the summons, so the plaintiff prays to have him brought to Court by a Minister of Justice. Petition granted.

Another petition from Peyroux.

There is still another request from Mr. Peyroux, to the effect that the defendant was summoned to Court and promised to finish the work within a specified time, but as this is about to expire and the said houses are still in the same condition as before, Winter is coming on and the buildings are without their roofs and he does not show any signs of continuing his labors, and he can not obtain any satisfaction from him. Therefore he prays that Milon be ordered to appear in the Escribano's office, so as to make a declaration, and done deliver it to the petitioner to promote what is convenient to his rights. He again asks for a writ of citation. Alcalde Panis rules accordingly on both requests.

Plans of houses submitted.

Peyroux then submits the plans of the houses that Milon had contracted to build, and sets forth that more than twenty months ago his opponent was paid for his work, but up to the present he has not finished it, and what he has built has, through his negligence, rotted, and besides it was very badly built. And although he has received various summons to appear in the Escribano's office he has not done so. Therefore he prays to have Milon verify, under oath, his signature to the plans here presented and if they are not the same that he obligated himself verbally before Jacinto Panis to carry out. And if in accordance

with this agreement the houses were not to have been delivered to him finished in October. He further prays that some Minister of Justice make Milon appear. Juan Ventura Morales, into whose Court the case has passed, accepts the plans and orders Milon brought before him by some Minister of Justice to verify his signature.

The verbal agreement.

On February 13, 1783, Jacinto Panis makes a declaration on the verbal agreement between Peyroux and Milon. It reads in part: That Mauricio Milon having agreed and contracted to take down a house for Mr. Peyroux on his plantation on the Bayou and re-erect same on an island and lot of ground which he owns in the city, under conditions agreed upon and to repair the said houses. By his many delays he has avoided the fulfillment of his contract. Mr. Peyroux would force him in justice to do so, and began this law suit for the purpose. In order to avoid costs and unpleasantness, in the beginning of August of last year they came together in Alcalde Panis' office and in his presence composed their differences. Milon offered to finish the building of the house and leave it in a habitable state by the end of October of the same year. This he has not yet done, according to the frequent complaints Mr. Peyroux has made to him in the course of the year.

Gabriel Peyroux again petitions.

Gabriel Peyroux de Rochemolive then petitions, saying that according to the certificate duly presented Milon agreed, before Alcalde Panis, to finish the house; this he has not yet done, the delay has caused him great prejudice, and at his solicitations he has not been willing to come to any settlement. Therefore he prays to have him condemned to pay the rent for the said house and also to comply with his conditions, or failing to do so, to order the work done at his expense. Morales receives Panis' declaration, and rules to send it and the foregoing petition to Milon.

Peyroux appoints Bertoniere his attorney.

The next entry is a certified copy of a Notarial Act by which Gabriel Peyroux de la Rochemolive appoints Pedro Bertoniere his attorney to represent his interests in the law suit he prosecutes against Milon. Mr. Bertoniere presents this procuration and petitions for his client saying: Much time has past since his last demand was given to his opponent, but he has not answered. Therefore he accuses him of default and prays the Court to rule in conformity to what he has requested in his foregoing petition. Francisco Maria de Reggio decrees: The defendant is in default, proceed with the examination of the house. Let the interested parties, each one for himself, name a person skilled in the art with a warning if this is not done within one day, experts will be named officially.

Milon appoints Liotaud his attorney.

Here filed is a certified copy of a Notarial Act by which Mauricio Milon appoints Luis Liotaud as his attorney, and in this capacity he asks to present the aforesaid procuration so as to attach it to these proceedings. In a second petition he sets forth that before answering the plaintiff's request it is convenient to his rights to have Peyroux put under oath before the Court to swear categorically to the tenor of an interrogatorio he will present, and when the declaration is made deliver it to him for purposes convenient to him. De Reggio rules: Petition denied for the present. Let them proceed with the examination of the house, and let Lorenzo Wiltz and Bautista de Flandres, intelligent persons, be named as examiners, who must first accept and take oath. Let the fifteenth day of the current month, at nine o'clock in the morning, be assigned for this proceeding. Notify the parties to assemble for the transaction, which must take place with de Reggio's assistance.

Notification of the experts.

Fernando Rodriguez, Notary Public, Escribano of this case, records that he notified Lorenzo Wiltz, but he refused to accept the appointment because of his many occupations. On July 16, 1783, De Reggio appoints Francisco Cheval to act in place of Lorenzo Wiltz. The former is notified and qualifies, as does Mr. de Flandres. They proceed to examine the house.

Examination of the house.

Señor Don Francisco Maria de Reggio, Alferez Real, Regidor Perpetuo, acting Alcalde, accompanied by the Escribano, Fernando Rodriguez, Francisco Cheval and Bautista de Flandres, experts named for the examination of some houses belonging to Gabriel Peyroux, built for him by Mauricio Milon, and upon arriving there the arbitrators said the house was not finished. They saw that one part of the boards were not nailed. There were two locks missing as well as two hooks and one bolt. All the work on the building was very badly done and is worthless. The house is not right, considering that it is higher on one side than on the other and is neither firm nor solid on its foundation because it is not nailed to the beams. In a word the lining of the boards, the chimneys and the roof are all badly made and full of faults, therefore to repair these great defects it would cost 200 pesos. To have the work well done they think it would be better to take the house down and build it all over again.

Peyroux again petitions.

Gabriel Peyroux petitions saying that according to the statement made by the arbitrators after their examination of the house it is neither finished, nor is it well built; they found it almost unserviceable and have declared it would cost more than 200 pesos to put it in proper order so as to be habitable. There-

fore he prays to have the case definitely sentenced, and to have Milon obligated to put it in the proper state, or condemn him to pay 200 pesos. De Reggio orders this sent to Milon.

Lorenzo Wiltz makes a declaration.

On August 13, 1784, Lorenzo Wiltz makes a declaration to the effect that in March or April of 1783 he was appointed by Mr. Morales to examine a house that Mr. Milon had obligated himself to build for Mr. Peyroux on a lot on the corner of an island belonging to him. After due examination of everything, Mr. Peyroux received the house in very good condition. It agreed with the plan made at the bottom of which their contract had been drawn up for the construction of the said house. The contract was without date, but to all of which Mr. Peyroux agreed. He makes this declaration at Mr. Milon's request.

Mauricio Milon petitions.

Mauricio Milon then petitions, saying that some time ago he turned over the house to Peyroux in such condition as they had agreed upon and in conformity to the said contract, this delivery was made by order of Juan Ventura Morales, then Alcalde, in the presence of the arbitrators appointed for this purpose. Lorenzo Wiltz was also there and in his presence Peyroux received the house in accordance with the plan and contract without saying anything about all not being as it should be. At that time it must have been in good condition as is evident from the certification of one of the arbitrators, which he duly presents. In consideration whereof he asks to have Mr. Wiltz under oath verify his signature and swear and declare to the truth of his statement, and if the result is in conformity may it please the Court to exclude Peyroux' unjust demands and condemn him to perpetual silence and to the payment of all costs of the case. He calls the Court's attention to the fact that in their contract there was no time limit for the completion of the house because of the low price for the work, and that it was retarded at the time by all the Tribunals before which the suit impended, as he can promptly prove authentically. De Reggio sends this petition to his Assessor General and, on Postigo's advice, rules: He must receive and does receive this cause for trial within nine common days when both parties, within that time, must allege and prove what is convenient to them. They must cite, reciprocally, the witnesses, who must take oath and be examined on what they mutually present one against the other. For this is his order. Signed Francisco Maria de Reggio, Licenziado Postigo. Before Fernando Rodriguez. The record ends here and is therefore incomplete.

July 24.

Juana Auclaire vs. Juan Caminiche, to cede her the house in which he resides.

No. 30. 3 pp.

Court of Alcalde Jacinto Panis.
No Assessor.
Escribano, R. Perdomo.

This case, growing out of the desire of the owner of a house which she has rented to a tenant for one year at a monthly rental, to regain possession of the property before the expiration of the year, is of interest to the student of Louisiana law.—W.P.

Juana Auclaire says that in order to justify herself with regard to the obligation which accompanies this she begs to state that she is the owner of the house in which Juan Caminiche, called Cadet, lives, and according to the obligation he has agreed to pay her 20 pesos a month in silver for the space of one year. However, it does not appear in the said obligation that she can for any reason evict him during that term, even though she or her children needed to occupy it, but neither has her tenant any action nor right to continue to live there until the date stipulated. In consequence whereof Caminiche has resisted eviction. She has made him see the motives that influenced her, still he has put off vacating from month to month in spite of her polite expostulations. Therefore she prays her opponent be ordered by this Tribunal to leave her house so that she may occupy it herself. The Court orders this sent to the defendant.

The obligation, dated January 1, 1782, reads: I, Jean Caminiche, by my ordinary mark, acknowledge to have rented from Madame Rouvier a house belonging to the Mioton minors, for the space of one year at the rate of twenty pesos a month, payable each month punctually, in receipt of discharges on account dated this day. etc. Signed: Joseph Bicat, witness, and Gan Caminiche. This ends the record.

August 3.

Executory Process. Pedro Villamil vs. Thomas Fargues and Joseph Nicolas, now dead.

No. 504. 39 pp.

Court of Alcalde Jacinto Panis.
Assessor, Postigo.
Escribano, R. Perdomo.

This suit, growing out of a dispute over the settlement of accounts, in which a deceased person was concerned, is interesting to the student of law on account of the claims and counter-claims presented by the litigants. The suit is finally withdrawn by the plaintiff, after it has been proven that the surviving debtor has no property, and the costs of the suit are levied against the plaintiff.—W.P.

This record is in a very bad condition and crumbles at a touch. There is very little left of it except bits of writing along the edge of the pages.

Pedro Gonzales Villamil sets forth that it is convenient to his right to have Thomas Fargues declare under oath concerning a clause in an obligation which he duly presents and to state if the signature is his and if he does not owe 307 pesos 6 reales, the remainder of a debt of 586 pesos 6 reales due the plaintiff by the defendant and Josef Nicolas, now dead. Alcalde Panis orders the declaration made.

The declaration. Thomas Fargues says the signature to the obligation is his and that the amount stipulated, 307 pesos 6 reales, is the remainder of the principal sum mentioned in the obligation and, although it appears in the liquidation that he has signed as 377 pesos 6 reales, there must be subtracted from it 70 pesos for a barrel of rum until such time as it will have been appraised by intelligent persons.

The obligation. We, the undersigned, obligate ourselves, with our persons and present and future estates, to pay to the order of Pedro Gonzales Villamil the sum of 586 pesos 6 reales, proceeding from various effects that we have received to our entire satisfaction. This amount will be paid, at the latest, on our return from our voyage. This agreement is dated May 27, 1781, and is signed Thomas Fargues and, for ———— Nicolas, per Manuel Ponze Pasquin. Below is written, deduct 90 pesos for a barrel of rum. There are further deductions for 220 pesos and 59 pesos, amounting in all to 279 pesos. Thomas Fargues signs a statement below that there remains to be paid and he still owes and obligates his person and property to pay to Pedro Villamil for the liquidation of accounts 377 pesos. Dated, April 16, 1782. Signed, Thomas Fargues.

Appointment of an attorney. Francisco Broutin is appointed attorney to represent Thomas Fargues, and begs leave to present the certified copy of the Notarial Act naming him to the office. Petition granted. The procuration is dated August 3, 1782, and follows the foregoing petition.

The plaintiff asks for a writ of execution. Pedro Villamil asks for a writ of execution against all or any property belonging to Thomas Fargues, to the extent of the debt. its one tenth and costs, with reservation for what concerns the barrel of rum mentioned in the obligation. Panis rules accordingly.

Broutin answers. Francisco Broutin answers for his client, asking for the records of the case so that he may contest it. Petition granted.

Villamil petitions. The plaintiff claims that although the records were delivered to his opponent, he has not answered the suit. Therefore he prays that the said records be returned and Mr. Fargues, failing to comply, they be removed by judicial compulsion. Alcalde Panis rules: Let the records be collected by judicial compulsion in virtue of this decree. Nicolas Fromentin signs a marginal note that he has removed these records by judicial compulsion in virtue of the foregoing decree.

Fargues asks to present an interrogatorio.

The defendant asks to present an interrogatorio, upon the tenor of which Pedro Villamil must answer under oath. Petition granted. Ten questions are propounded, but both they and their answers are in such a condition that it is almost impossible to decipher them.

1st. Q. Is it not true that he rented him a pirogue on the 29th of last September?
This is true in all its contents.

2nd. Q. Is it not true that this pirogue measured 33 feet long by 3½ wide with a room six feet long and that it has an iron chain with lock and key and four oars?

A. He can not affirm the measurements in feet of the length and width of the pirogue, nor its depth, or likewise if there are three or four iron tholes. It is true about the padlock and chain with the key, but with regard to the oars he does not know.

3rd. Q. Is it not true that the note he, Fargues, has presented is for various effects bought at Atakapas, among them may be included 62 small bottles of syrup sold to him at 12 reales each?

A. (The anwser to this question can not be read.)

4th. Q. Is it not true that the said syrup having spoiled he promised to make good the loss, which he has never done?

A. (Answer undecipherable.)

5th. Q. Is it not true that among these effects the plaintiff told the defendant there was a barrel of rum containing something like 60 "potes" (standard measure)?

A. The barrel contained the measure stipulated in the question.

6th. Q. Is it not true that more than a year ago (the rest is illegible)?

A. It is true he repaired a repeating-watch, but not a silver one.

Questions 7, 8, 9, and 10 are impossible to read; the answers appear as:

7th. A. This is true in its contents.

8th. A. This is true but he does not know the pieces (nothing further can be read.)

9th. A. This is true in its contents.

10th. A. He does not know if the forenamed number of reales have been paid, because he has not presented the account with which he is credited and that he has remonstrated with Mrs. Riguero for the said 20 reales some 15 days ago. This is the truth under his oath. He is 24 years old.

Procuration presented.

Villamil asks to present a power of attorney, appointing Fernando Rodriguez to act for him. Alcalde Panis accepts, and orders the certified copy of the document to be made a part of the records. The next entry in the file is the power of attorney. Then Fernando Rodriguez, on behalf of his client, asks to recover the records of the suit by judicial compulsion. Panis rules: Let the records be removed by virtue of this decree. A marginal note, dated September 9, 1782, and signed N. Fromentin, stipulates that these records were removed by judicial compulsion.

Broutin petitions.

Francisco Broutin, acting for Mr. Fargues, answers, saying all that he owes is 433 pesos 2 reales, from which must be deducted 377 pesos, leaving a remainder of 66 pesos 2 reales, the full amount for the rental of his (the words obliterated) until today, which does not include the rent which is due up to (impossible to read) for his pirogue. He also made various payments on account, besides there is a barrel of rum Villamil sold to him as measuring 60 "potes" which did not contain more than 30. This barrel of rum must be appraised at its legitimate value by intelligent persons, as he has declared on page 2. The plaintiff can not contest his debt because it is in accordance with his declaration on page 17, wherein he acknowledges to have rented the defendant's pirogue. In Mr. Villamil's answer to the 5th question he says the barrel of rum contained 60 "potes", but he can prove the contrary by any cooper. He prays to have his opponent's case excluded and be condemned to pay him 66 pesos 2 reales that are due him, as well as all costs, for not having asked him (Fargues) to adjust their accounts. Panis sends this petition to Juan Doroteo del Postigo for his advice.

Account and sworn statement.

Pedro Villamil presents an account and sworn statement to show what has gone to make up the various amounts that he and Fargues owe each other. There is the rental of a pirogue 33 feet long with 4 oars and 4 tholes, an iron chain and padlock, from September 29th until the 9th of the current month, which amounts to 34— (?) pesos (the last figure of the numeral obliterated). He has paid Fargues 258 pesos on account, besides repairing a repeating watch for 10 pesos, another watch for 4 pesos, a gold watch for 6 pesos, and repaired still another gold watch, has had to make the fly-wheel and set the balance right; this work cost 6 pesos. He has also repaired a sword for 3 pesos, amounting in all to 287 pesos. Certain sums were paid on this account, leaving an indebtedness of ——— (undecipherable). Filed thereafter is a note, signed by Thomas Fargues, which is evidently his receipt for certain payments, as it reads: A balance of ——— pesos 2½ reales that he owes Villamil.

This is followed by a receipt, signed by Juan Riguero, stating he has received 2½ pesos from Thomas Fargues, and in testimony whereof he signs in New Orleans, August 12, 1782.

The writ.

The next entry is a judgment signed by Alcalde Panis and Assessor General Postigo, ordering a writ of execution and imprisonment issued. A note stipulates that the writ of execution and imprisonment which was ordered has been issued. The writ and the deputy sheriff's report to the Court that he has served the writ and placed Thomas Fargues in the public prison, follow in due course.

Fargues asks to be released from prison.

Fargues, through his attorney Broutin, asks to be released from prison, offering to present witnesses who will testify to his insolvency, and if the truth results he prays to be given his liberty because his wife is about to become a mother and is wholly dependent upon his labors for support. Petition granted. The witnesses, Juan Beniere and Francois Hubert, each in a separate declaration, testify that Fargues has no known property in this city and therefore can not pay his creditors.

Fargues again prays for his release.

Thomas Fargues again asks to be released from prison on the strength of the evidence presented by his witnesses. Panis, on Postigo's advice, orders the evidence sent to Pedro Villamil. He agrees to withdraw the suit, which he asks to have dismissed, since Fargues has no property. Panis, on Postigo's advice, rules accordingly, ordering Luis Lioteau to tax costs, which must be paid by Villamil.

Fargues petitions for security for costs.

The defendant asks to have one of the plaintiff's slaves put in prison to pay costs. Panis orders Villamil notified to pay costs within three days, with a warning that if he does not do so, one of his slaves will be seized and sold to pay same. Costs taxed September 30, 1782, at 36 pesos 2 reales. A note at the bottom states: Paid to-day, March 30, 1787.

August 14.

Carlota Olivier Fagot vs. Carlos Honorato Olivier Devesin.

No. 3442. 5 pp.

Court of Alcalde Panis.
No Assessor.
Escribano, L. Mazange.

Asking for a certified copy of an act of sale.

The record opens with a certified copy of a Notarial Act by which Carlota Constanza Olivier Devesin, widow of Daniel Fargo, appoints Fernando Rodriguez her attorney and he, acting in this capacity, sets forth that Carlos Honorato Olivier bought a plantation from his client three years ago, the act of sale for which will be found in Rafael Perdomo's Archives. Therefore he asks the Court to order him to make a cer-

There is nothing of particular interest in this case, which is merely a request for a certified copy of an act of sale of a plantation.—W.P.

tified copy of it, agreeing to pay promptly all just and due fees for same. Petition granted. This ends the suit.

August 18.

Succession of Maria Saulier, wife of Francisco Duplessis, Inventory and valuation of her estate.

No. 3462. 103 pp.
Courts of Alcaldes Panis, Le Bretton, de Reggio and Forstall.
Assessor, Juan del Postigo.
Escribano, Leonardo Mazange.

This suit is interesting as illustrating the difficulties met with in the settlement, to the satisfaction of all parties concerned, of a succession, to which there are numerous heirs, some of whom are minors.—W.P.

Page 1 is the official notice of the death of Maria Saulier (Sautier), wife of Francisco Duplessis, who has died leaving minor children. This is followed by a certification of the death, collection of the keys and search for the will in the offices of the two Notaries, Leonardo Mazange and Rafael Perdomo. Both certify that no will nor disposition was drawn up before them, nor filed in their Archives. Alcalde Panis then rules: Maria Saulier having died intestate, leaving minor children, he names Francisco Broutin their curator. He must be notified to accept, take oath and give bond. Broutin qualifies, giving Philippe Guinault as his bondsman. Whereupon the Court confirms Broutin in the curatorship. Francisco Broutin asks to make an inventory and appraisement of the estate by public experts. Panis orders this sent to the other interested parties. After some delay Francisco Duplessis finally answers, saying he offers no objections to Broutin's request.

Other heirs petition.

Francisco Duplessis, Martin Duplessis, Elizabeth Duplessis, widow of Juan Camperos, and Mathias Alpuente, by representation of Margarita Duplessis, all of age, children of the late Maria Saulier, say the petition to make the inventory is just, and there will be no difficulty to produce the estate for that purpose. Panis orders them to proceed with the taking of the inventory. Francisco Duplessis asks to have Broutin name an appraiser for his minor children. The curator failing to name one, Duplessis asks to have the appraisement made by public appraisers. Petition granted, Panis rules: Let them be notified for their acceptation and oath in due form. Francisco Bijon and Adrien de la Place both qualify. Broutin asks to have a day set aside for making the inventory and appraisement. Panis names the day following, the 5th of the current month.

The inventory. The inventory is made in the presence of Jacinto Panis, the Escribano, Francisco Broutin, curator of the minors, Fernando Rodriguez, representing the widower, Francisco Duplessis, Mathias Alpuente, as husband of Margarita Duplessis, Elizabeth Duplessis, widow of Juan Camperos, Francisco Duplessis, Martin Duplessis, and Adrien de la Place and Francisco Bijon, public appraisers. The estate consists of household effects, wearing apparel, silverware, slaves, livestock, buildings on a plantation measuring 7 arpents front by a depth to Bayou St. John, adjoined on one side by the real property belonging to the heirs of Thomas Saulet and on the other by Andres Reynaud's place, valued at 4440 pesos. There are also some house furnishings on the plantation, besides other slaves.

Papers submitted in the suit.

1st. An act of sale before Garic, December 21, 1763. Luis Beaurepos to Francisco Duplessis, land measuring 3 arpents front by 50 deep, with a receipt for payment at the end, dated January 4, 1765.

2nd. Act of sale before Garic, January 28, 1765, for another 5 arpents front by 50 deep, sold by Esteban Garnier, Jr., Captain of a Ship, to Francisco Duplessis.

3rd. A concession conceded by Carlos Philipe Aubry, Knight of the Order of Saint Louis, and Dionisio Nicolas Foucault, Ordonnateur of this Province, dated June 18, 1766, signed by the above named and their secretaries and registered on page 12, the reverse side, in the Notarial Archives of Augustin Chantalou, late Notary Public of this Province.

4th. Marriage Contract of Francisco Duplessis with Maria Saulier, his deceased wife, drawn up by Augustin Chantalou, dated August 23, 1749, registered in the Books of the Superior Council, December 1752. There are also letters, passive debts, etc.

Any other known property. Francisco Broutin, curator for the minor children, asks to have Duplessis declare, under oath, if his wife left other property than what is contained in the foregoing inventory. Panis rules accordingly. Duplessis declares that his wife left no other estate than what is shown in the inventory and if anything else should be located at any time he will put it on manifest.

Petition to have the inventory approved. Broutin asks to have the inventory approved. Panis orders this petition sent to the other interested parties. Later Broutin complains that they do not answer, and prays to have them declared in default, the inventory approved and all ordered to abide by it. Panis decrees: Let them answer for the first audience. Francisco Duplessis and the heirs of age then request to

have the inventory approved. Panis rules: With the consent of all parties he approves the inventory and appraisement made of the estate, and in consequence condemns all to abide by it.

Petition for the sale of the estate.

Broutin and the other interested parties ask for the sale of the estate. Panis orders the sale cried. The public calls are made September 28, October 8 and 17. These calls having been given, Broutin asks to have the date set for the auction. Panis names the following day, the 23rd of the current month, for the auction. The public sale is held in the presence of Alcalde Jacinto Panis, Francisco Broutin, Curator, Fernando Rodriguez, representing the widower, and the heirs of age, Joseph Dias, empowered by Mathias Alpuente, acting for his wife, Martin Braquier, empowered to act for Francisco Duplessis, and Elizabeth Duplessis, widow of Juan Camperos. They proceed to sell the effects. Among the items mentioned is the plantation measuring 7 arpents front running back to Bayou St. John, adjoined on one side by Thomas Saulet and on the other by Andres Reynaud, upon which has been constructed a main house built of wood and brick, with a kitchen, and three cabins for the negroes. The bidders were Carlos Parent, who offered 4000 pesos, Narciso de Alva, bidding 4500 pesos, Santiago Mather, with 4600; Lorenzo Wiltz bids 4700, de Alva bids 4800, Alexandro Baure offers 4900, de Alva bids 5000, and being the last and the highest bidder, acquires the plantation.

Petition for taxation of costs.

Broutin asks for a taxation of costs to be paid by Francisco Duplessis, Guardian of the estate. Petition granted, the taxation to be made by the public taxer, who must first be notified so that he may accept and take oath in due form. Luis Liotaud accepts, qualifies and taxes costs at 189 pesos 7½ reales.

Broutin asks to resume the sale.

Broutin again petitions, stating that some days ago the sale of the property was suspended, which had already begun, much to the prejudice of his minors. He prays the Court to order the sale continued. Alcalde Le Bretton into whose Court the case has passed rules: Let the sale be continued as requested.

The sale is resumed.

The sale is begun again on April 28, 1783, when all the furniture and slaves are sold in the presence of Alcalde Joseph Le Bretton, Francisco Broutin, Curator ad lites of the minor heirs of Maria Saulier, Francisco Duplessis, their father, Martin Duplessis, Mathias Alpuente, acting for his wife, Margarita Duplessis, Martin Braquier, acting for Francisco Duplessis, Jr., Elizabeth Duplessis, widow of Juan Camperos, and Christoval de Armas, as married to Maneta Duplessis, all children of age, and the escribano, Fernando Rodriguez.

Petition to sell the house.

Broutin then prays to sell the house on Royal Street. Le Bretton rules: Considering that much time has intervened, let the three public calls be given again for the sale of the house, as it will be of great advantage to the interested parties to dispose of it. The three public calls are made May 1st, 11th and 21st. Whereupon Broutin asks to have the day set aside for the sale. Alcalde Le Bretton appoints May 23rd for the auction. The house is described as located at the corner of Royal and Toulouse, adjoined on one side by Mathias Alpuente's property and on the other by Renato Brion. The bidders were Juan Bautista Tounoir who offered 1500 pesos cash, Francisco Duplessis bids 1600 cash, Salomon Mallines offers 1700 cash, Guillermo Smith 1800, Vicente Rillieux 1900, Francisco Duplessis outbids the others with 2000, and the house is adjudicated to him.

Mr. Duplessis asks to have the rest of the estate adjudicated to him.

Francisco Duplessis petitions, saying that his wife's entire estate has been sold except a small amount of furniture, her clothes and jewelry, which amounts in all to 749 pesos 2 sols. The heirs, his children, have agreed to allow them to be adjudicated to him at the price of their appraisement, and he prays that this be done. Le Bretton orders this petition sent to the curator and the heirs. Rodriguez notifies the interested parties. He sets down that when he went to communicate with Christobal de Armas, in person, the latter answered that he had no knowledge of this succession and no one had ever notified him of any of the decrees, nor had he been present at the sale of the estate, nor had he ever heard any one speak of the matter. To all of which Rodriguez attests.

Broutin consents to the adjudication.

Broutin consents to the adjudication of Mrs. Duplessis' personal effects to her husband at the price of their valuation, namely, 749 pesos 2 reales. Le Bretton orders this sent to the other heirs, who must answer with a petition. This is followed by a second taxation for these last proceedings, amounting to 5 pesos 6 reales.

Broutin asks for an adjudication.

Broutin again petitions, this time in the Court of Francisco Maria de Reggio, Regidor Perpetuo, Alferez Real and Alcalde Ordinario, saying that more than a year has elapsed since the heirs of age were given Francisco Duplessis' petition asking to have his wife's personal effects adjudicated to him at the price of their valuation, 749 pesos 2 reales. They were ordered to answer this petition. About a year has passed, yet through malice they will not answer because of a determination among them to delay the course of this succession and cause further costs. Therefore he accuses them of being in default and asks to have the adjudication made without their consent. Alferez

De Reggio orders the heirs notified to answer, within three days, in a petition, with a warning of what will have place in law.

Broutin again petitions.

Brouin again petitions, saying that having adjudicated to Francisco Duplessis the furniture, clothes and jewelry of his late wife, for 749 pesos 2 reales, he now asks to have the guardian of the estate ordered to give his account and sworn statement, so that they may proceed to the partition among the heirs, and make evident the part that should come to the minors. On October 11, 1784, De Reggio rules: Let the heirs of Maria Saulier answer this petition.

The heirs ask for a partition.

On February 5, 1785, the case having passed into Alcalde Nicolas Forstall's Court, Mathias de Alpuente y Ruis, as husband of Margarita Duplessis, by representation of Casimiro and Emea Duplessis, Francisco Duplessis and Christoval de Armas y Arcila, as husband of Maria Duplessis and tutor and curator of Maria Rosa Camperos, and Martin Duplessis, set forth that they are the heirs of Maria Saulier. She has left some property which has been inventoried and sold so as to be divided among her heirs. In virtue of which they have determined among themselves to make an amicable division. They ask the Court to order the records of the suit for the settlement of the succession delivered to them so that the partition may be accomplished. Petition granted. This ends the proceedings, and the case is therefore unfinished.

August 21.

Joseph Provost called Collete vs. Mr. Bonnand.

No. 3448. 3 pp.

Alcalde J. Panis.
No Assessor.
Escribano, Mazange.

To collect a debt.

This suit is interesting as illustrating the procedure in collecting a debt due by a resident of the parish of St. Charles to a resident of New Orleans.—W.P.

Page one is a copy of the account of Sieur Bonnand with Collette. It reads: Wages given to him from January 1st up to March 19, 1782, 110 pesos. Money and merchandise given to him 50 pesos. Given to him by George Heno 4 pesos. Presenting this account Joseph Provost, called Collette, petitions, saying according to the foregoing account it appears that Bonnand owes him the amount stipulated therein (164 pesos) and, as he is absent from the city and lives in the Parish of Francisco Seimars de Belisle, he prays for a writ of despatch to be issued to the Commander with an enclosure of the said account, this petition and its decree, so that upon sight of it he will be pleased to send Bonnand to this Tribunal. Jacinto Panis orders the writ of despatch issued to the Commander of Saint Charles Parish, Francisco

Seimars de Belisle, as requested, ordering him to send Bonnand to this Tribunal and for its fulfillment let him obtain the help of the acting commander of this place. (Esteban Miro).

Collette presents a second petition, saying that the defendant is now in this city, therefore he asks to have some minister of justice make him appear in the present Escribano's office so as to notify him that he must not leave the city until this matter has been concluded. Panis orders a minister of justice to bring Bonnand to the Escribano's office so as to charge him with a certain obligation and to notify him that he must not leave this capital without concluding this proceeding, with a warning of what will have place in law. Nicolas Fromentin, a Minister of Justice, reports to the Escribano that he went to look for Bonnand in various parts of the city, but he was informed that he is absent, so he sets this down as a matter of record.

August 22.

Succession of Augustin Grevembert, Inventory and valuation of his estate.

No. 3423. 18 pp.

Court of Alcalde Jacinto Panis and Governor Miro.

No Assessor.

No Escribano named.

This suit, for the settlement of the succession of a resident of Attakapas, who also has some property in New Orleans, is of interest for the list of items in the estate and for the manner in which the property of the succession was disposed of.—W.P.

This record opens in the regular way, with the official announcement of the death of Augustin Grevembert, called Flamand, the certification to same by the escribano, the taking up of the keys and probating the will. This document reads in part that the testator is a resident of Atakapas, son of the late Juan B. Grevembert and Anna Judith Chenal. About three years before he married Maneta Chastan, and no children have been born to them. Their marriage contract was drawn up before Juan B. Garic, dated January 2, 1779; therein what his wife brought to the community is stipulated. He declares that he and his four brothers paid with their personal labors a sum of 30,000 livres that their father, Juan B. Grevembert, owed at his death, so as to leave their mother in peaceful possession of the property he left. His estate consists of a plantation at Atakapas measuring 20 arpents front by 40 deep, about 50 cows on his mother's dairy farm, marked with his brand, besides 11 or 12 horses also branded with his mark, and two slaves, one from New England, named Charlot aged about 25, and a negress, Isabel aged 18, and a negro called Digry about 26. He owes the Doctor in this Province 350 pesos as a final payment for Digry. This debt he asks to have paid at his death. He also owes Francisco Verret 520 pesos, Mr. Dubois according to his account 44 pesos, Francisco Braquier the full amount of two notes, to Perina Grevembert, his sister, he owes 30 pesos,

to Pedro Aubry 112 pesos, according to the notes he has signed. to Henry, the shoemaker, 9 pesos, to Mr. Massicot 20 pesos. All these amounts he wishes his testamentary executor to pay at his death. He declares that his wife brought to the marriage according to their contract and he has received from her father a negress named Rosa from Mobile. He appoints Andres Wakarnie as testamentary executor and guardian of the estate, so that at his death he can sell enough of his property to pay the funeral expenses. And for the remainder of his estate, rights and actions, he institutes and names for his sole and universal heir, his mother, Anna Judith Chenal.

Petition to make the inventory.

Andres Wakarnie, testamentary executor and guardian of the estate left by Augustin Grevembert, petitions to make an inventory of the property left by the deceased in this city and to issue at the same time a despatch in due form to the Commander of the Post of Atakapas and Opelousas, Alexandro De Clouet, so that he make one of what is in that Post, and done let the said inventory and appraisement proceedings be transmitted to this Tribunal so that the necessary decree may be given. Panis rules accordingly. A marginal note stipulates the despatch which was ordered has been issued on four sheets of paper. This day, September 29, 1782.

Act to appoint an attorney.

The next entry is a certified copy of a Notarial Act, by which Andres Wakarnie appoints Fernando Rodriguez to act as his attorney in the settlement of the Augustin Grevembert estate. This act is presented with the request that the records of the case be turned over to Rodriguez so he may continue the proceedings of inventory and appraisement. Petition granted. Here filed is the inventory and appraisement made by Alexandro de Clouet, dated October 21, 1782, of Augustin Grevembert's property at his Post. The estate consists of wearing apparel, a silver sword, house furnishings, a gun, 9 cakes of Spanish and French soap, 95 rolls of tobacco, carriage and horse, four slaves, one in the city, livestock, etc. The real property on the Tesche (Teijche) measures 20 arpents, the entire estate amounts in all to 2800 pesos 4 reales.

Petition to sell the estate.

Andres Wakarnie petitions, saying the inventory of the estate in Opelousas shows slaves, land and live stock. He asks for an order to sell, with the customary three public calls for same. He further requests to have the effects in the country sold there as it will be to the greater advantage of the estate to do so, and done transmit the proceedings to this Tribunal so that they may be filed with the principal records. He prays for a despatch to be issued and sent to the Commander of the Post, so that he may execute the sale. Governor Miro, into whose Court the case has passed, rules: Issue a despatch in due form to the

Commander of the Post of Opelousas and Atakapas, Brevet Lieutenant Don Alexandro de Clouet, so that he may order the public calls given and sell all the movable and immovable property belonging to Augustin Grevembert, and done transmit the proceedings to the present escribano. A marginal note states that the despatch which was ordered has been issued.

Petition to sell the effects in the city.

The testamentary executor petitions, saying it was ordered to sell the Grevembert property in Opelousas, and there now remains to be sold what is in the city, consisting of a slave named Isabel, aged 20 years, and a few clothes. He asks to have these inventoried and appraised. Petition granted, Governor Miro naming Adrien de la Place and Pedro Cowley appraisers. These two appraisers are notified, accept and take oath. Andres Wakarnie, who has appointed Pedro Bertoniere as his attorney, asks for the public calls and sale of Isabel and Mr. Grevembert's wearing apparel. Petition granted. The calls are made with blank spaces left for the insertion of the dates. (Note: The last part of this record is badly put together, with the documents filed out of order.)

The auction sale.

The next entry is a certified copy of a Notarial Act, by which Wakarnie appoints Pedro Bertoniere his attorney to represent him in the Grevembert succession. Bertoniere then asks for the sale of the slave and wearing apparel. Miro sets June 16, 1783, as the day for the auction. The sale is held. Salomon Mallines offers 500 pesos for Isabel, Nicolas Perthuit bids 600, Francisco Cheval (or Chenal), raises it to 700, Elias Beauregard bids 725. This is the last and highest bid, and Isabel is adjudicated to him at this price. The last entry is the inventory and appraisement of Mr. Grevembert's clothes and the slave. This ends the record.

August 26.

Santiago Lemelle vs. Santiago Chapron.

No. 3428. 5 pp.

Court of Alcalde Jacinto Panis.
No Assessor.
No Escribano named.

To collect a debt.

This case is of interest mainly as an illustration of the manner in which disputes were often settled out of court, after suit had been instituted to collect a debt.—W.P.

The plaintiff claims a debt of 162 pesos which he asks to have verified. Petition granted. In a second petition, Mr. Lemelle asks for a writ of citation because his opponent lives on his plantation. The writ is ordered issued by Alcalde Panis. It is issued and served. Santiago Chapron comes to the city, and under oath verifies his signature and acknowledges the debt. Lemelle asks the return of the note, as he and his opponent have settled their difference. When the note is returned he signs a receipt for it, which ends the proceedings.

August 26.

Jose Briones vs. Francisco Ruiz Suarez.

No. 38. 11 pp.

Court of the Intendant General Martin Navarro. Assessor, Juan del Postigo. Escribano, Rafael Perdomo.

To collect a debt.

This suit to collect a debt is of interest principally as an illustration of the manner in which creditors forced debtors to make settlement before they might legally leave the province of Louisiana.—W.P.

Josef Briones sets forth that Francisco Ruiz Suarez owes him 428 hard pesos, the remainder of a debt of 2781 pesos, as the certified copy of the written instrument which accompanies this shows. Therefore he prays for a writ of execution against his person and estate for the amount due, the one tenth and costs. Navarro, on Postigo's advice, orders the writ of execution issued. A marginal note stipulates that it was issued, and a note on the reverse side of this page states that the document which was filed on page 3 and 4 was removed from these proceedings and returned to Francisco Ruiz Suarez, in virtue of a decree of August 29.

The writ of execution is served by Deputy Sheriff Nicolas Fromentin, who reports to the Court that he requested Francisco Ruiz Suarez to pay Josef Briones 428 hard pesos due him. He answered: He had no money with which to pay the debt, and not having put any property on manifest that could be seized, he left the execution open in accordance with law, so as to enforce it at some later time. Suarez asked him to set this down as a matter of record.

Joseph Briones and Francisco Ruiz Suarez decide to compromise their suit in this manner: Suarez to give Briones a bond so that in case the debt is not settled on his arrival in Vera Cruz by Manuel Garcia Romay, merchant in that city, Joseph Diaz, or his order, will pay it, as he is the bondsman proposed in this cause. He is likewise charged to pay costs. And for this agreement to have effect they pray intendant Navarro, for its greater validation and force, to interpose his judicial decree and in consequence thereof to cancel these proceedings, and to return the certified copy of the document filed with this record just as soon as the escribano draws up the necessary bond they have agreed upon. Navarro, on Postigo's advice, rules accordingly.

Francisco Ruiz Suarez petitions saying, as these proceedings, as well as those prosecuted against Joseph Lagos are entirely finished, and in order to accredit in this Tribunal that there are no suits pending for or against him, so as not to embarrass his voyage to Vera Cruz, may it please the Court to order the escribano to certify at the end of this representation that what he has related is true. And for what concerns the

verbal demand made against him by Bentura Biralo in this same Tribunal, and for which he was condemned to pay 110 pesos, the full amount due for 6 barrels of brandy, he calls attention to the fact that he has paid this debt, as the accompanying receipt shows. Navarro, on Postigo's advice, rules: Let the Escribano certify as is solicited, and let Ventura Vilaro's (Biralo) receipt be returned to him, and let him be given the corresponding permit for the ends he has petitioned. Fees 1 peso.

Rafael Perdomo certifies that Francisco Ruiz Suarez has come to an agreement with Josef Briones in the executory process for the collection of 428 pesos, and also the suit that he prosecuted against Joseph Lagos, and that there does not remain any litigation pending against the aforenamed Suarez before him, as clerk of the Court, and in testimony whereof and in fulfillment of the foregoing decree he sets down the present in the city of New Orleans, August 31, 1782. Costs are taxed the same day at 11 pesos.

(To be continued)